UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

US FEDERAL BUILDING & COURTHOUSE
550 W FORT ST, MSC 042
BOISE ID 83724

ANNOUNCEMENT TO ATTORNEYS AND THE PUBLIC

DISTRICT OF IDAHO
REVISED AND ADOPTED DISTRICT COURT LOCAL RULES
effective July 1, 1994

REVISIONS effective August 1, 1997 **are incorporated into the rules that were already in effect and are so noted at the bottom of the page with the date of revision.**

Appendix I, Fee Schedule, is revised and effective January 1, 1998

LDR 7.1(d) is revised and effective March 15, 1998

The rules have been numbered in conformity with a Uniform Rules Numbering System and pages are not numbered numerically, but have the rule number at the top and bottom of each page.

Copies for public viewing are available at the Boise clerks office, Room 400; and at the divisional offices in Coeur d'Alene, Moscow and Pocatello.

Local Rules, among other documents, are available on the Internet Web site at http://www.id.uscourts.gov. If you do not have access to the Internet, local rules can be copied on a diskette in WordPerfect 6.1 (IBM) format. Please provide a formatted 3.5" double-sided high density diskette by bringing it to the Clerk's office in Boise at the US Courthouse and Federal Building; 550 W Fort St, Room 400. You can also send the diskette, with a return addressed and stamped floppy mailer, to Clerk of the Bankruptcy Court, Attn: Ladora Butler, 550 W Fort St, MSC 042, Boise ID 83724.

We welcome your comments and suggestions which will be forwarded to the Rules Committee. Thank you.

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CIVIL RULES

CIVIL RULE 1.1
SCOPE OF THE RULES

(a) Title and Citation. These rules shall be known as the Local Rules of Civil and Criminal Practice before the United States District Court for the District of Idaho. They may be cited as "D. Id. L. Civ. R. ____" or "D. Id. L. Crim. R. ____."

(b) Effective Date. These rules became effective on June 1, 1991. Any amendments to these rules become effective on the date approved by the court.

(c) Scope of Rules. These rules shall apply in all proceedings in civil actions. Rules governing proceedings before magistrate judges are incorporated herein. These rules shall apply in bankruptcy cases and adversary proceedings except to the extent that there are otherwise applicable provisions of the Federal Rules of Bankruptcy procedure or the Local Bankruptcy Rules. Additionally, the general provisions of these rules apply to criminal proceedings as set forth in D. Id. Crim. L.R. 1.1.

(d) Relationship to Prior Rules; Actions Pending on Effective Date. These rules supersede all previous rules promulgated by this district or any judge of this court. They shall govern all applicable proceedings brought in this after they take effect. They also shall apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the court the application thereof would not be feasible or would work an injustice, in which event the former rules shall govern.

(e) Rule of Construction and Definitions.

(1) United States Code, Title 1, sections 1 to 5, shall, as far as applicable, govern the construction of these rules.

(2) The following definitions shall apply:

(A) **"Court."** As used in these rules, the term "court" refers to the United States District Court for the District of Idaho, to the entire board of judges for the District of Idaho, or to a particular judge or magistrate judge of the court before whom a proceeding is pending unless the rule expressly refers to a district judge only or to the full court.

(B) **"Clerk."** As used in these rules, the term "clerk" refers to the Clerk of Court or any deputy clerk designated by the Clerk of Court to act in the capacity of clerk.

RELATED AUTHORITY

None

CIVIL RULE 1.2
AVAILABILITY OF THE LOCAL RULES

Copies of these rules, as amended and with any appendices attached hereto, are available from the clerk's office at no charge. These local rules are available either in hard copy or can be downloaded from the Court's Internet site at http://www.id.uscourts.gov by using any Internet browser. If you prefer, the Clerk's Office can provide a copy in Word Perfect (IBM) format if you supply a formatted 3.5" diskette with a self-addressed stamped mailer.

When amendments to these rules are made, notice of such amendments shall be provided in The Advocate or other periodicals published by the Idaho State Bar.

When amendments to these rules are proposed, notice of such proposals and of the ability of the public to comment shall be provided in The Advocate or other periodicals published by the Idaho State Bar and by posting on the clerk's office bulletin boards in the federal buildings located in Boise, Pocatello, Moscow, and Coeur d'Alene.

RELATED AUTHORITY

Fed. R. Civ. P. 83

CIVIL RULE 1.3
SANCTIONS

The court may sanction for violation of any local rule governing the form of pleadings and other papers filed with the Clerk of Court only by the imposition of a fine against the attorney or a person proceeding *pro se*. Local rules governing the form of pleadings and other papers filed with the Clerk of Court include, but are not limited to, those local rules regulating the paper size, the number of copies filed with the court, and the requirement of a special designation in the caption.

RELATED AUTHORITY

Fed. R. Civ. P. 11, 16(f), 26(g), 37, 61
28 U.S.C. § 1927

CIVIL RULE 3.1
VENUE

The calendar areas of the United States District Court for the District of Idaho shall consist of the following counties:

Southern Calendar:

Ada	Gooding
Adams	Jerome
Blaine	Lincoln
Boise	Minidoka
Camas	Owyhee
Canyon	Payette
Cassia	Twin Falls
Elmore	Valley
Gem	Washington

Eastern Calendar:

Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Bonneville	Lemhi
Butte	Madison
Caribou	Oneida
Clark	Power
Custer	Teton

Northern Calendar:

Benewah	Kootenai
Bonner	Latah
Boundary	Lewis
Clearwater	Nez Perce
Idaho	Shoshone

Cases that have venue in one of the above calendar areas will be assigned by the clerk upon the filing of the complaint or petition to the appropriate calendar area. Juries will be selected from the calendar areas in accordance with the Jury Selection Plan adopted by the court.

RELATED AUTHORITY

28 U.S.C. § 92

CIVIL RULE 5.1
GENERAL FORMAT OF PAPERS PRESENTED FOR FILING

(a) All pleadings, motions, and other papers presented for filing shall be on 8 ½ x 11 inch white paper of good quality, flat and unfolded, without back or cover, and shall be plainly typewritten, printed, or prepared on one side of the paper only by a clearly legible duplication process, and double-spaced, except for quoted material and footnotes. Documents on 14-inch paper shall be reduced in size before filing. Documents more than ½ inch thick shall be two-hole punched at top edge. Each page shall be numbered consecutively. The top, bottom, and side margins shall be at least one inch and the font or typeface for all text, including footnotes, shall be at least 12 point.

(b) The name, address, and telephone number of counsel (or, if *in propria persona*, of the party) and a specific identification of the party represented by name and interest in the litigation (i.e., plaintiff, defendant, etc) shall appear in the upper left-hand corner of the first page of each paper presented for filing, except that in multi-party actions or proceedings, reference may be made to the signature page for the complete list of parties represented. Following the counsel identification and commencing four inches below the top of the first page, (except where additional space is required for identification) there shall appear:

(1) The title of the court;
(2) The title of the action or proceeding;
(3) The file number of the action or proceeding;
(4) The category of the action or proceeding as provided hereinafter in these rules;
(5) A title describing the pleading. If the pleading is a response to a motion, that particular motion should be reflected in the title; and
(6) Any other matter required by this rule.

(c) The clerk shall file all pleadings presented for filing upon payment of the appropriate fee, if any. In the event of a failure to comply with these rules, the clerk may bring the failure to comply to the attention of the filing party and of the judge to whom the action or proceeding is assigned.

(d) Removing Cases from State Court.

(1) A copy of the entire state court record and the docket sheet must be provided at the time of filing the notice of removal.

(2) Supplemental Civil Cover Sheet for Notices of Removal: Attorneys are required to complete a supplemental civil cover sheet when a notice of removal is filed in the

District of Idaho. The form is available from the Clerk of Court. This form is used by the Clerk of Court to identify the status of all parties and attorneys. See D. Id. L. Civ. R. 7.1, Motion Practice.

(e) Civil Cover Sheet. Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet, on a form available from the clerk. This requirement is solely for administrative purposes, and matters appearing only on the civil cover sheet have no legal effect in the action.

If the complaint or other document is submitted without a completed civil cover sheet or supplemental civil cover sheet for notices of removal, the clerk shall file the complaint or the notice of removal as of the date received and promptly give notice of the omission of the respective civil cover sheet to the party filing the document. When the respective civil cover sheet has been received, the clerk shall process the complaint or notice of removal as of the original date of filing the complaint.

RELATED AUTHORITY

Fed. R. Civ. P. 5(e), 79(a)(d)
Fed. R. Civ. P. 81

CIVIL RULE 5.2
PROOF OF SERVICE WHEN SERVICE IS REQUIRED BY FED. R. CIV. P. 5.

Whenever any pleading presented for filing is required or permitted by any rule or other provision of law to be served upon any party or person, it shall bear or have attached to it (a) an acknowledgement of service by the person served, or (b) proof of service stating the date, place and manner of service and the names of the persons served, certified by the person who made service.

RELATED AUTHORITY

Fed. R. Civ. P. 4(1), 5

CIVIL RULE 5.5
NON-FILING OF DISCOVERY

Disclosure of expert testimony, interrogatories, requests for documents, requests for admission, and answers and responses thereto shall be served upon other counsel and parties but shall not be filed with the Clerk of Court unless on order of the court or for use in the proceeding. Any certificates of service related to discovery documents shall not be filed with the clerk. The party responsible for service of the discovery material shall retain the original and become the custodian. The original of all depositions upon oral examination shall be retained by the party taking such deposition.

If relief is sought under any of the Federal Rules of Civil Procedure, pertinent portions of discovery matters in dispute may be attached to the motion filed under these rules by the party seeking to invoke the court's relief.

If disclosure of expert testimony, depositions, interrogatories, requests for documents, requests for admissions, answers, or responses are to be used at trial or are necessary to a pretrial or post trial motion, those portions to be used shall be lodged with the clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated by the parties. Documents must indicate the scheduled date of trial or hearing at which they will be used and to whom the documents should be returned after the trial or hearing.

When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the court, or by stipulation of counsel, the necessary discovery papers shall be lodged with the Clerk of Court. Discovery lodged with the Clerk of Court shall be returned to appropriate counsel after final disposition of the case. Discovery lodged with the Clerk of Court will be treated as exhibits and returned pursuant to D. Id. L. Civ. R. 79.1.

RELATED AUTHORITY

Fed. R. Civ. P. 5(d)

CIVIL RULE 6.1
REQUESTS AND ORDERS TO SHORTEN OR EXTEND TIME OR CONTINUE TRIAL DATES

When by these rules or by notice given thereunder an act is required or allowed to be done at or within a specified time, the court, for cause shown, may at any time, with or without motion or notice, order the period be shortened or extended.

(a) Requests for Time Extensions Concerning Motions.
All requests to extend briefing periods or to vacate or reschedule motion hearing dates must be in writing and state the specific reason(s) for the requested time extension. Such requests will be granted only upon a showing of good cause. A mere stipulation between the parties without providing the reason(s) for the requested time extension will be deemed insufficient. The requesting party must apprise the court if they have previously been granted any time extensions in this particular action.

(b) Requests for Trial Continuance.
All requests to vacate, continue, or reschedule a trial date must be in the form of a written motion, must be approved by the client, and must state the specific reason(s) for the requested continuance. A mere stipulation between the parties without providing the specific reason(s) for the requested continuance will be deemed insufficient. Client approval can be satisfied either by the client's actual signature or by the attorney certifying to the court that the client knows about and agrees to the requested continuance. The requesting party must apprise the court if they have previously been granted a trial date continuance in this particular action.

RELATED AUTHORITY

Fed. R. Civ. P. 6
28 U.S.C. § 473

CIVIL RULE 7.1
MOTION PRACTICE

(a) General Requirements.

(1) The moving and responding parties are required to submit an additional copy of any motion, memorandum of points and authorities, and supporting affidavits and documents to the Clerk of Court for use by the judges' chambers.

(2) No memorandum of points and authorities in support of or in opposition to a motion shall exceed twenty (20) pages in length without express leave of the court which will only be granted under unusual circumstances. The use of small fonts and/or minimal spacing to comply with the page limitation is not acceptable.

(3) Proposed orders shall be submitted as a separate document on routine, uncontested matters at the time the motion is filed. A proposed order is not required when filing dispositive motions and preliminary injunctions. When a proposed order is required to be submitted, it shall be accompanied by envelopes with sufficient postage, addressed to all parties, including a Certificate of Service as follows reflecting the envelopes provided:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this _____ day of _____, 19____, I served
true and correct copies of the foregoing ORDER _____
by United States mail, postage prepaid, to the following:

_____
_____
_____

_____
Deputy Clerk

(4) If counsel wants conformed copies of any motion, memorandum, or other submission, additional copies shall be provided to the Clerk of Court to be conformed. If filing by mail and a conformed copy of the filed motion, etc., is required, a stamped, addressed envelope must accompany the copy(ies) to be conformed.

(5) Any party, either proposing or opposing a motion or other application, who does not intend to urge or oppose the same shall immediately notify opposing counsel and the Clerk of Court by filing a pleading titled "Non-Opposition to Motion."

(b) Requirements for Submission--Moving Party.

(1) The moving party shall serve and file with the motion or application affidavits required or permitted by Fed. R. Civ. P. 6(d), copies of all photographs and documentary evidence which the moving party intends to rely upon.

(2) Each motion, other than a routine or uncontested matter, shall be accompanied by a separate brief containing all of the reasons and points and authorities relied upon by the moving party. In motions for summary judgment under Fed. R. Civ. P. 56, the moving party will also file a separate statement of all material facts, not to exceed ten (10) pages, upon which the moving party contends are not in dispute.

(3) The moving party may submit a reply brief within fourteen (14) days after service upon the moving party of the responding party's memorandum of points and authorities.

(c) Requirements for Submission--Responding Party.

(1) The responding party(ies) shall serve and file a response to the motion or application within fourteen (14) days after service upon the party of the memorandum of points and authorities of the moving party.

(2) The responding party(ies) may file a statement of facts which are in dispute not to exceed ten (10) pages in length.

(3) The response brief, clearly identified as a "Response to the Motion _____ filed on _____" shall contain all of the reasons and points and authorities relied upon by the responding party. The response brief may be accompanied by affidavits, photographs, or any documentary evidence relied upon by the responding party.

(d) ~~Determination of Motions by the Court and Scheduling for Oral Argument, if Appropriate.~~ (Revision effective March 15, 1998)

(1) ~~After a motion is filed and the appropriate time for the response and reply has run, a "Notice of Motion Determination Procedure" will be sent to all parties advising whether or not: (1) the motion will be decided on the written submissions, (2) whether the motion will be set for hearing on a specific date and time for oral argument, or (3) whether the motion will be set for hearing at a later date.~~ The attorneys will be responsible for resolving any conflicts regarding the hearing date and time. In the event the scheduled date of the hearing conflicts with some other event that cannot be rescheduled, the moving party will be responsible for contacting opposing counsel regarding their available dates and times. The moving party will then contact the courtroom deputy for a new hearing date and time and, if necessary, perform any follow-up coordination between counsel. If the hearing on the motion has to be rescheduled, the moving party must prepare and

deliver the notice of hearing in the appropriate amount of time.

(2) Attorneys are encouraged to communicate with the courtroom deputies regarding the status of any motions.

(e) Motions in Removal Cases from State Court. The filing date of the notice of removal will be considered the filing date of all pending motions previously filed in the state court action, unless otherwise ordered by the Court. If a response and/or reply have also been filed in the state court action prior to the filing of the notice of removal, no further response or reply pleadings will be accepted. If a response to the motion has not been filed in the state court action, the response deadline will be fourteen (14) days after the filing of the notice of removal. If a response to the motion was filed in the state court action but a reply to the response has not been filed in the state court action, the reply deadline will be fourteen (14) days after the filing of the notice of removal.

(f) Effects of Failure to Comply with the Rules of Motion Practice. Failure by the moving party to file any documents required to be filed under this rule in a timely manner may be deemed a waiver by the moving party of the pleading or motion. In the event an adverse party fails to file any response documents required to be filed under this rule in a timely manner, such failure may be deemed to constitute a consent to the sustaining of said pleading or the granting of said motion or other application. In addition, the court, upon motion or its own initiative, may impose sanctions in the form of reasonable expenses incurred, including attorney fees, upon the adverse party and/or counsel for failure to comply with this rule.

(g) Requests to Extend Motion Briefing Period or to Vacate or Reschedule Motion Hearing Dates (See D. Id. L. Civ. R. 6.1)

RELATED AUTHORITY

Fed. R. Civ. P. 5(a), 6(d), &(b), 78

CIVIL RULE 7.2
EX PARTE ORDERS

All applications to a judge of this court for *ex parte* orders may be made by a party appearing *in propria persona* or by an attorney of this court. All applications shall be accompanied by a memorandum and/or affidavit outlining the necessity and authority for issuance of the order *ex parte*. When the opposing party is represented by counsel, the application must recite whether opposing counsel has been notified of the application for an *ex parte* order or set forth the reasons why opposing counsel has not been notified.

RELATED AUTHORITY

Fed. R. Civ. P. 5, 7, 78

CIVIL RULE 7.3
STIPULATIONS

Except as otherwise provided, stipulations shall be recognized as binding only when made in open court or filed in the case. Written stipulations shall not be effective unless approved by the judge or clerk as applicable. A proposed order with copies and stamped, addressed envelopes for each partyshall be submitted with every stipulation and shall be filed as separate documents.

All stipulations concerning time extensions for briefing periods or vacating, continuing or rescheduling a motion hearing date or trial date must be in writing and state the specific reason(s). Such stipulations will be approved only upon a showing of good cause. (See D. Id. L. Civ. R. 6.1)

RELATED AUTHORITY

Fed. R. Civ. P. 7(b), 16, 29, 78

CIVIL RULE 9.1
SOCIAL SECURITY NUMBER IN SOCIAL SECURITY CASES

Any person seeking judicial review of a decision of the Secretary of Health and Human Services under Section 205(g) of the Social Security Act (42 U.S.C. § 405(g)) shall provide, on a separate paper attached to the complaint served on the Secretary of Health and Human Service, the social security number of the worker on whose wage record the application for benefits was filed. The person shall also state, in the complaint, that the social security number has been attached to the copy of the complaint served on the Secretary of Health and Human Services. Failure to provide a social security number to the Secretary of Health and Human Services will not be grounds for dismissal of the complaint.

RELATED AUTHORITY

42 U.S.C. § 405(c)(2)(B)
42 U.S.C. § 405(g)

CIVIL RULE 9.3
NON-CAPITAL CASE HABEAS PETITIONS (STATE CUSTODY) AND MOTIONS (FEDERAL CUSTODY)

(a) All petitions for writs of habeas corpus in non-capital cases filed pursuant to 28 U.S.C. § 2254 and motions filed pursuant to 28 U.S.C. § 2255 shall be subject to the provisions of this rule unless otherwise ordered by the Court.

(b) The petition or motion shall be in writing and, if presented in propria persona, upon the form and in accordance with the instructions approved by the Court. Copies of the forms and instructions shall be supplied by the Clerk of Court upon request. Upon receipt of a petition and application to proceed in forma pauperis, the Clerk of Court shall conditionally file these items subject to the Court's initial review under 28 U.S.C. § 1915.

(c) Upon completion of the initial review of the conditionally filed petition and application to proceed in forma pauperis, if the seems it proper to proceed under 28 U.S.C. § 1915, the Clerk of Court shall be directed to serve the appropriate attorney general's office with the petition. Counsel for the respondent shall be responsible for filing an answer to the petition and for filing those portions of the record ordered by the Court.

(d) If the petitioner had previously filed a petition for relief or for a stay of enforcement in the same matter in this Court, then, where practicable, the new petition shall be assigned to the judge who considered the prior matter.

(e) If relief is granted on the petition of a state prisoner, the Clerk of Court shall forthwith notify the state authority having jurisdiction over the prisoner of the action taken.

RELATED AUTHORITY

28 U.S.C. § 1915
28 U.S.C. §§ 2241-2255
Rules Governing Section 2254 Cases in United States District Courts
Rules Governing Section 2255 Cases in United States District Courts

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CIVIL RULE 9.4
SPECIAL REQUIREMENTS FOR HABEAS CORPUS PETITIONS
INVOLVING THE DEATH PENALTY

(a) Applicability. This rule shall govern the procedures for a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 in which a petitioner seeks relief from a judgment imposing the penalty of death. The application of this rule may be modified by the judge to whom the petition is assigned. These rules shall supplement the Rules Governing Section 2254 Cases and do not in any way alter or supplant those Rules.

(b) Counsel.

(1) Appointment of Counsel. Each indigent capital case petitioner shall be represented by counsel unless petitioner has clearly elected to proceed pro se and the court is satisfied, after a hearing, that petitioner's election is knowing and voluntary. Unless petitioner is represented by retained counsel, counsel shall be appointed in every such case at the earliest practicable time.

(2) Qualifications of Appointed Counsel. Upon application by petitioner for the appointment of counsel, the court shall appoint the Capital Habeas Unit of the Federal Defenders of Eastern Washington and Idaho as lead counsel. Upon request of the Capital Habeas Unit, the court shall also appoint an attorney from the Criminal Justice Act (CJA) Capital Habeas Panel as second counsel. In the event of conflicts, existing workload, or other special factors, the Capital Habeas Unit is unable to provide representation it shall recommend the attorneys from the CJA Capital Habeas Panel to be appointed. The court will either accept the recommendation or select other attorneys from the CJA Capital Habeas Panel.

When an application for the appointment of counsel is made before a petition for writ of habeas corpus has been filed, the application shall be assigned to a district judge in the same manner that a petition would be assigned.

(c) Initial Proceedings and Request For a Stay of Execution. Upon the issuance of a death warrant by a state district court, and following the court's decisions on a petitioner's direct appeal to the Idaho Supreme Court and application for writ of certiorari to the United States Supreme Court, if any, a petitioner may seek relief from a capital sentence in this court by filing a petition for writ of habeas corpus.

(1) Initiation of Habeas Corpus Proceedings. Federal habeas corpus proceedings may be initiated in this court by a petitioner or on behalf of a petitioner by filing an original and one copy of the following:

(A) Application for a stay of execution.

(B) Application to proceed in forma pauperis with a supporting affidavit. (Not required if petitioner has retained counsel.)

(C) Application for the appointment of counsel or to proceed pro se. (Not required if petitioner has retained counsel.)

(D) Statement of issues re: petition for writ of habeas corpus.

(2) Statement of Issues. The statement of issues re: petition for writ of habeas corpus shall:

(A) state whether petitioner has previously sought relief arising out of the same matter from this court or any other federal court, together with the ruling and reasons for denial of relief;

(B) state that petitioner intends to file a petition for writ of habeas corpus;

(C) list the issues to be presented in the petition for writ of habeas corpus; and

(D) certify that the issues outlined raise substantial questions of constitutional law, are non-frivolous, and are not being raised simply for the purpose of delay.

(3) Receipt of Initial Filings by the Court. Upon receipt of the initial filings, the Clerk of Court shall immediately assign the matter to a district judge who shall immediately review the filings and, if the matter is found to be properly before the court, the court will issue an order containing a stay of execution for the duration of the proceedings in this Court, a ruling on the application to proceed in forma pauperis, a ruling on the application for the appointment of counsel, and setting forth an initial scheduling order of deadlines for the filing of a petition for writ of habeas corpus.

(4) Notice of Stay. Upon the granting of any stay of execution, the Clerk of the court will immediately notify the following: counsel for the petitioner, the Idaho Attorney General, the warden of the Idaho Maximum Security Institution, and, when applicable, the Clerks of the Idaho Supreme Court and the Ninth Circuit Court of Appeals shall also be notified.

The Idaho Attorney General is responsible for providing the Clerk of Court with a telephone number where he or she or a designated deputy attorney general can be reached twenty-four (24) hours a day.

(5) Temporary Stay for Unexhausted Claims. If a petition is found to contain

unexhausted claims for which a state remedy may still be available, the court may:

(A) dismiss the petition without prejudice; or

(B) upon motion, grant a petitioner's request to withdraw the unexhausted claims from the petition, and grant a temporary stay of execution in which to allow a petitioner to seek a further stay from the state court in order to litigate the unexhausted claims in state court. During the proceedings in state court, the proceedings on the petition will be stayed. After the state court proceedings have been completed, petitioner may amend the petition with respect to the newly exhausted claims.

(d) Pleadings, Motions and Briefs.

(1) Caption. Every pleading, motion, or other application for an order from the court which is filed in these matters shall contain a notation in the caption which indicates that it is a capital case. The notation "CAPITAL CASE" shall appear in bold, capital letters to the right of the case entitlement and directly beneath the Case Number. The following is provided as an example:

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

JOHN DOE,	)	
	)	Case No.
Petitioner,	)	**CAPITAL CASE**
vs.	)	
	)	APPLICATION FOR
A. J. ARAVE,	)	STAY OF EXECUTION
	)	
Respondent.	)	
_____	)	

(2) Motion Practice. Unless this rule or an order of the court provides otherwise, motion practice shall comply with the applicable local rules of the Court.

(3) Form of Briefs. Except by permission of the Court, no brief may be filed that is not permitted by this rule or the applicable local rules of the Court.

(4) Length of Briefs.

(A) Except by permission of the Court, briefs in support of and in opposition to motions and the assertion of the procedural default bar shall be no longer than thirty (30) pages. If a reply brief is permitted, it shall be no longer than fifteen (15) pages.

(B) Except by permission of the court, principal briefs addressing the merits

of the claims set forth in the petition shall be no longer than sixty (60) pages, and the reply brief shall be no longer than twenty-five (25) pages.

A motion for permission to exceed page limits must be filed on or before the brief's due date and must be accompanied by a declaration stating in detail the reasons for the motion.

(e) Procedures for Considering the Final Petition for Writ of Habeas Corpus. Unless the petition is summarily dismissed, the following schedule and procedures shall apply, subject to modification in the discretion of the assigned district judge. Requests for extensions of any time period shall be made in compliance with the applicable local rules of the Court.

(1) State Court Record. The respondent shall, as soon as practicable after the initiation of the habeas corpus proceeding, but in any event within twenty (20) days from the filing of the petition, lodge with the court one copy of the following:

(A) Transcripts of the state court proceedings.

(B) Clerk's records to the state court proceedings.

(C) The briefs filed on consolidated appeal to the Idaho Supreme Court and on any petition for rehearing.

(D) Copies of all motions, briefs and orders in any post-conviction relief proceeding.

(E) An index to all materials described in paragraphs (A) through (D) above.

If any items required to be lodged in paragraphs (A) through (D) above are not available, respondent shall so state and indicate when, if at all, such missing material(s) will be lodged.

If counsel for petitioner claims that the respondent has not complied with the requirements of this section, or if petitioner does not have copies of all of the documents lodged with the Court, petitioner shall immediately notify the court in writing with a copy to the respondent. Copies of any missing documents shall be provided to petitioner by the respondent.

(2) Petition for Writ of Habeas Corpus. Petitioner shall file a petition for writ of habeas corpus no later than the date set in the Court's scheduling order.

(3) Exhaustion. If respondent intends to challenge the exhausted status of any claim in the petition, respondent shall file an appropriate motion no later than ten (10) days after the date the petition is filed. Petitioner will have ten (10) days after such motion is filed within which to

file a response. The court will take the matter under submission, without oral argument.

(4) Answer. If respondent does not intend to challenge the exhausted status of any claim in the petition, or is willing to waive exhaustion, respondent shall file an answer to the petition within thirty (30) days from the date the petition is filed. Any relevant documents not already filed or lodged with the court shall be attached to the answer.

(5) Traverse. Within thirty (30) days after respondent has filed the answer, petitioner may file a traverse.

(6) Procedural Default. If the respondent intends to rely on the procedural default doctrine to bar any claim in the petition, respondent shall state so in the answer. Petitioner will have thirty (30) days from the filing of the answer within which to file a brief containing all the reasons in opposition to the procedural default bar and legal authorities relied upon. Respondent will have twenty (20) days after the brief of petitioner is filed within which to file a response brief. Petitioner will have ten (10) days after the response brief is filed within which to file a reply brief. The court will take the matter under submission, without oral argument.

(7) Evidentiary Hearing. Any motion for an evidentiary hearing shall be made within sixty (60) days from the filing of the answer. The motion shall include a specification of which factual issues require a hearing.

If an evidentiary hearing is held, the court will order the preparation of a transcript of the hearing, which is to be provided to petitioner and respondent for use in briefing and argument. Upon the preparation of the transcript, the court may establish a reasonable schedule for further briefing and argument of the issues considered at the hearing.

(8) Discovery. No discovery shall be had without leave of the court.

(9) Oral argument. Unless otherwise provided, motions and applications shall be submitted and determined upon the pleadings, briefs and record. The Court, at its discretion, may hear oral argument on the merits of the claims set forth in the petition.

(10) Motions for Reconsideration. A motion for reconsideration may be filed within ten (10) days after the date an order was filed. The motion must state with particularity the points of law or fact which in the opinion of the party the court has over-looked or misapprehended and must contain such argument in support of the motion as the party desires to present. No response to a motion for reconsideration may be filed unless requested by the Court. Oral argument in support of the motion will not be permitted.

(f) Notification of Court's decision or ruling. The court will issue its decision or ruling on the issues set forth in the petition in writing.

The Clerk of Court will immediately notify the counsel for the petitioner, the Idaho Attorney General, the warden of the Idaho Maximum Security Institution, and the Clerk of the Idaho Supreme Court of the Court's decision or ruling on the merits of the petition.

The Clerk of Court will immediately notify the Clerk of the United States Court of Appeals for the Ninth Circuit, and if applicable, the Clerk of the United States Supreme Court, by telephone of:

(1) the issuance of a final order denying or dismissing a petition without a certificate of appealability; and

(2) the denial of a stay of execution.

If the petition is denied and a certificate of appealability is issued, the court will grant a stay of execution which will continue in effect until the Ninth Circuit Court of Appeals acts upon the appeal or the order of stay.

When a notice of appeal is filed, the Clerk of Court shall immediately transmit the record to the Clerk of the United States Court of Appeals for the Ninth Circuit.

RELATED AUTHORITY

28 U.S.C. § 2254
Rules Governing Section 2254 Cases in United States District Courts
21 U.S.C. § 848(q)(4)-(9)
Idaho Code Appellate Rule 25(a)(7) (1987)

CIVIL RULE 15.1
FORM OF A MOTION TO AMEND
AND ITS SUPPORTING DOCUMENTATION

(a) Amended Pleadings. A party who moves to amend a pleading shall include the portion of the proposed amended pleading in the motion. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, shall reproduce the entire pleading as amended. Failure to comply with this rule is not grounds for denial of the motion.

(b) Supplemental Pleadings. (See Fed. R. Civ. P. 15(d))

RELATED AUTHORITY

Fed. R. Civ. P. 15(a and d)

CIVIL RULE 16.1
PRE-TRIAL PROCEDURES

(a) Scheduling Conference.

(1) Unless otherwise ordered by the Court, or in those cases exempted as inappropriate, a scheduling conference will be conducted and an order issued in all civil cases within 90 days after the appearance of a defendant and within 120 days after the complaint has been served on a defendant. The Court, in its discretion, may use telephonic hearings for this purpose. The court will notify all parties of the date and time of the scheduling conference.

Ten (10) days prior to the scheduling conference, attorneys will be required to communicate between themselves with respect to the issues, cut-off dates and time frames contained on the scheduling conference form/litigation plan, obtainable from the Clerks Office. These include:

(A) Joinder of parties & amendment of pleadings cut-off date;

(B) Pretrial disclosures; (see D. Id. L. Civ. R. 26.2(c))

(C) Expert testimony disclosures; (see D. Id. L. Civ. R. 26.2(b))

(D) Number and length of depositions;

(E) Discovery cut-off date;

(F) Dispositive motions filing cut-off date;

(G) Alternative Dispute Resolution:
1. Settlement Conferences (D. Id. L. Civ. R. 16.2)
2. Arbitration (General Order No. 92)
3. Mediation (General Order No. 130)

(H) Status conference date; (see D. Id. L. Civ. R. 16.1(b))

(I) Pretrial conference date; (to be entered by the Court)

(J) Estimated length of trial

(K) Trial date (to be entered by Court)

The courtroom deputy for the assigned judge will contact the attorneys to set a date and time for the scheduling conference. Attorneys will be required to submit an executed copy of the scheduling conference form/litigation plan to the court no later than seven (7) days prior to the scheduling conference.

After the scheduling conference, the court will prepare and enter an order which will provide time frames and dates for the items contained on the scheduling form. Upon the court's determination, certain cases will be exempt from these requirements and the parties will be so notified.

(b) Status Conference. At any time after the commencement of an action, the assigned judge may, with or without written request of any party, order the holding of a status conference. Status conferences may be telephonic or in person. All parties shall be prepared to discuss any particular subjects specified in the status conference notice, in addition to the following:

(1) Service of process on parties not yet served;

(2) Jurisdiction and venue;

(3) Anticipated motions;

(4) Anticipated or remaining discovery;

(5) Further proceedings including setting dates for discovery cutoff, pretrial, and trial;

(6) Appropriateness of special procedures such as reference to a master or magistrate judge or the Judicial Panel on Multidistrict Litigation or the application of the Manual for Complex Litigation;

(7) Modification of the pretrial procedure specified by this rule on account of the relative simplicity or complexity of the action or proceeding;

(8) Prospects for settlement;

(9) Appropriateness of reference to an Alternative Dispute Resolution (ADR) program.

(10) Any other matters which may be conducive to the just, efficient, and economical determination of the action or proceedings.

At the conclusion of the status conference, or anytime thereafter, the assigned judge or magistrate judge may enter such order governing further proceedings in the action as he or she may deem appropriate, including provision for discovery and pretrial motions cut-off dates, initiation of

pretrial proceedings, motions in limine deadlines, and trial settings. Copies of any such orders shall be served on all parties who have appeared in the action or proceeding.

A status conference may be utilized separately or in conjunction with a discovery conference provided for in Fed. R. Civ. P. 26(f).

(c) Pretrial Statement.

Except as otherwise provided by a status conference order prepared under the rules or by stipulation of all parties approved by the assigned judge, the parties shall, not less than five (5) days prior to the date of the pretrial conference, serve and file separate pretrial statements, which shall follow the form and contain the information specified in this rule:

(1) Party. The names of the parties or party in whose behalf the statement is filed.

(2) Jurisdiction and Venue. The claimed statutory basis of federal jurisdiction and venue and a statement as to whether any party disputes jurisdiction or venue.

(3) Substance of the Action. A brief description of the substance of the claims and defenses presented.

(4) Undisputed Facts. A plain and concise statement of all material facts not reasonably disputable. Counsel are expected to make a good faith effort to stipulate to all facts not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(5) Disputed Factual Issues. A plain and concise statement of all disputed factual issues.

(6) Relief Prayed. A detailed statement of the relief claimed, including an itemization of all elements of damages claimed.

(7) Points of Law. A concise statement of each disputed point of law with respect to liability and relief. Reference shall be made to statutes and decisions relied upon, but extended legal argument is not to be included in the pretrial statement.

(8) Witnesses to be Called. A list of all witnesses likely to be called at trial, except for impeachment or rebuttal, together with a brief statement following each name describing the substance of the testimony to be given.

(9) Exhibits, Schedules and Summaries. A list of all documents and other items to be offered as exhibits at the trial, except for impeachment or rebuttal, with a brief statement following each describing its substance or purpose and the identity of the sponsoring witness.

(10) Further Discovery or Motions. A statement of all remaining discovery or motions.

(11) Stipulations. A statement of stipulation requested or proposed for pretrial or trial purposes.

(12) Amendments, Dismissals. A statement of requested or proposed amendments to pleadings or dismissals of parties, claims, or defenses.

(13) Settlement Discussion. A statement summarizing the status of settlement negotiations and indicating whether further negotiations are likely to be productive.

(14) Agreed Statement. A statement as to whether presentation of the action or proceeding, in whole or in part, upon an agreed statement of facts, is feasible and desired.

(15) Bifurcation, Separate Trial of Issues. A statement whether bifurcation, or a separate trial of specific issues, is feasible and desired.

(16) Reference to Magistrate Judge or Master. A statement whether reference of all or a party of the action or proceeding to a magistrate judge or master is feasible and desired.

(17) Appointment and Limitation of Experts. A statement whether appointment by the court of an impartial expert witness, or limitation of the number of expert witnesses, is feasible and desired.

(18) Trial Date. Except where the trial date has been previously set, a statement of the proposed trial date.

(19) Estimate of Trial Time. An estimate of the number of court days expected to be required for the presentation of each party's case. Counsel are expected to make a good faith effort to reduce the time required for trial by all means reasonably feasible, including stipulations, agreed statement of facts, expedited means of presenting testimony and exhibits, and the avoidance of cumulative proof.

(20) Claims of Privilege or Work Product. A statement indicating whether any of the matters otherwise required to be stated by this rule are claimed to be covered by the work product or other privilege. Upon such indication, such matters may be omitted subject to further order at the pretrial conference.

(21) Miscellaneous. Any other subjects relevant to the trial of the action or proceeding, or material to its just, efficient, and economical determination.

(d) Pretrial Order, Submission of Pretrial Material.
The assigned judge or magistrate judge may make such pretrial order or orders, at or following the pretrial conference, as may be appropriate. Such order shall control the subsequent action or proceeding as provided in Fed. R. Civ. P. 16. Unless otherwise ordered, the parties shall, not less than fourteen (14) calendar days prior to the date on which the trial is scheduled to commence:

(1) Serve and file briefs on all significant disputed issues of law, including foreseeable procedural and evidentiary issues, setting forth briefly the parties' positions and the supporting arguments and authorities.

(2) In jury cases, serve and file proposed jury instructions and form of verdict in conformance with these rules.

(3) Serve and file statements designating excerpts from depositions (specify the witness and page and line reference), from interrogatory answers, and from responses to requests for admissions, to be offered at the trial other than for impeachment or rebuttal.

(4) Exchange copies of all exhibits to be offered and all schedules, summaries, diagrams, and charts to be used at the trial, other than for impeachment or rebuttal.

(5) On a standard form, obtainable from the Clerk of Court, all parties shall furnish a list of their intended trial exhibits. In addition to physical and documentary exhibits, this list will include any deposition or document containing answers to interrogatories and requests for admissions to be offered or used in trial. The completed exhibit list shall contain a brief description of each intended trial exhibit. To the extent possible, exhibits are to be listed in the sequence in which the parties propose to offer them. No exhibit is to be assigned a number without first contacting the clerk. After assignment of numbers, the exhibit list is to be furnished to the opposing party or parties and three copies submitted to the clerk. Each party shall also prepare sufficient copies of their documentary exhibits to provide copies to the opposing party or parties. Additionally, each party must lodge with the clerk an original and two copies of their documentary trial exhibits. All copies shall be bound with metal paper fasteners and tabulated for marking.

Each party appearing shall present to the clerk their intended trial exhibits, except for impeachment and rebuttal materials. This will include depositions, answers to interrogatories, and requests for admissions, as well as all other documents and things intended to be used or offered by such party as trial exhibits.

If, however, a pretrial order is filed in lieu of a pretrial conference, the exhibits must be lodged with the clerk ten (10) days prior to the date of the trial. Finally, when presented to the clerk, the exhibits shall be in the same sequence as they appear on the exhibit list, but shall not be assigned a number without first contacting the clerk. In complying with this rule, counsel may discuss the matter and obtain assistance from the judge's law clerk and/or the judge's courtroom deputy.

RELATED AUTHORITY

Fed. R. Civ. P. 16
28 U.S.C. § 473

CIVIL RULE 16.2
SETTLEMENT CONFERENCES

(a) After the completion of factual discovery and the disclosure of expert witnesses, the attorneys will be required to meet or communicate between themselves and make a good faith effort to clarify and narrow issues, attempt to resolve certain disputed matters, and seriously explore the possibility of settlement.

Subsequent to the required meeting between counsel, if a party sincerely believes that a court-involved settlement conference would be valuable, that party may request a judicially-conducted settlement conference. The Court, in its discretion, will determine whether, under the circumstances, a judicial settlement conference could be productive.

(b) At any time after an action or proceeding is at issue, any party may file a request for, or the assigned judge on his or her own initiative may order, a settlement conference. The settlement conference may be ordered held in conjunction with any status or pretrial conference or independent thereof. Such conference may be held before the assigned judge, or at the request of a party, or again on the assigned judge's own motion, before such other judge or magistrate judge (hereafter the settlement judge) as may be designated for the purpose.

(c) The settlement judge before whom the settlement conference is scheduled may enter an order establishing an agenda and time schedule for the conference which may include, but not be limited to:

(1) The requirement that each party to such conference be represented by counsel authorized to participate in settlement negotiations;

(2) The principals to the litigation be in attendance or available by telephone;

(3) The representatives of all involved carriers be in attendance or available by telephone where insurance coverage is being provided;

(4) The counsel for each party, each representative of a party, and each representative of an insurance carrier be knowledgeable about the facts of the case and be prepared to candidly discuss the same with the settlement judge;

(5) Each party prepare and submit to the settlement judge, *in camera*, a candid and fair written summation of the facts as understood by that party.

(6) All information provided to the settlement judge shall be held in confidence and all written material submitted shall be returned to the submitting party upon termination of the settlement proceedings. No oral statement, written document, or other material considered during the settlement procedure may be used against any party in litigation; and

(7) The settlement conference may be continued from time to time until settlement is reached or the settlement judge determines that the settlement conference should be terminated.

RELATED AUTHORITY

Fed. R. Civ. P. 16

CIVIL RULE 17.1
INFANTS AND INCOMPETENT PERSONS

(a) Infants and Incompetent Persons.

(1) No claim of an infant or incompetent person shall be settled or compromised without leave of the court, embodied in an order approving the stipulation of settlement.

(2) Whenever an infant or incompetent person has recovered a sum of money, whether by settlement or judgment, such money, whether collected upon execution or otherwise, shall be deposited with the clerk, unless otherwise ordered by the court, to abide the further order of the court in the premises. Such money shall not be withdrawn except as hereinafter provided.

(3) Upon production of a certified copy of letters of guardianship of the property of the infant or incompetent person, or like commission, or of an order approving the compromise of a disputed claim of a minor, as contemplated by Idaho Code § 15-5-409a, issued out of any court of competent jurisdiction of the state, county, or district where the infant or incompetent person resides, an application may be made on behalf of the infant or incompetent person for an order directing the clerk to pay over to such guardian or other named or authorized person the amount so deposited. Such application must be made either by the attorney of record of the infant or incompetent person, or on notice to such attorney.

(4) On such application the amount of the attorney's lien on the fund, if any, shall be fixed and determined by the court, which determination shall be embodied in the order directing the disposal of the fund . The clerk shall thereupon pay out the monies as directed.

(b) Bond of Guardian Ad Litem. In cases in which an infant or incompetent person is represented by a next friend or by a guardian *ad litem*, as required by Idaho Code § 16-1618, no such next friend or guardian *ad litem* shall receive money or other property of the infant or incompetent person until the next friend or guardian *ad litem* has given such security for the faithful performance of such duties as the court shall prescribe. If such next friend or guardian *ad litem* shall not desire to receive any such money or property, the same may be paid or delivered to the clerk, or to such persons as may be directed by the judge, with like effect as if paid or delivered to the next friend or guardian *ad litem*, subject to payment of the clerk's fees.

RELATED AUTHORITY

Fed. R. Civ. P. 17(c)

CIVIL RULE 26.1
FORM OF CERTAIN DISCOVERY DOCUMENTS

The party answering, responding, or objecting to written interrogatories, requests for production of documents or things, or requests for admission shall quote each such interrogatory or request in full immediately preceding the statement of any answer, response, or objection thereto. The parties shall also number each interrogatory, request, answer, response, or objection sequentially, regardless of the number of sets of interrogatories or requests.

RELATED AUTHORITY

Fed. R. Civ. P. 26, 33, 34, 36

CIVIL RULE 26.2
DISCLOSURES

There shall be a duty to supplement all disclosures. These disclosures will be served upon the respective parties and not filed with the Court.

For good cause shown, the court can excuse parties from compliance with the disclosure requirements. In accordance with General Order No. 101 of the United States Bankruptcy Court for the District of Idaho, all local rules regarding disclosure shall not apply in bankruptcy cases or adversary proceedings unless specifically ordered by the Court.

(a) Initial disclosures: Parties are not required to complete initial disclosures as set forth in Federal Rules of Civil Procedure 26(a)(1) and discovery may commence with the filing of the complaint.

(b) Disclosure of expert testimony: The disclosure of expert testimony shall be in conformance with Federal Rules of Civil Procedure 26(a)(2)(A-C) in the form of a written report prepared and signed by the witness. The expert witness need only identify similar cases in which he or she has testified in the last four (4) years.

Unless the court designates a different time, the disclosure of expert testimony shall be made at least one hundred twenty (120) days before the scheduled trial date, or if the evidence is intended solely to contradict or rebut evidence on the same subject identified by another party, within thirty (30) days after the disclosure made by such other party.

Except for good cause shown, the scope of subsequent testimony by an expert witness shall be limited to those subject areas identified in the disclosure report or through other discovery such as a deposition.

(c) **Pretrial disclosures**: All pretrial disclosures shall be made in conformance with Federal Rules of Civil Procedure 26(a)(3) at least sixty (60) days before the scheduled trial date.

RELATED AUTHORITY

Fed. R. Civ. P. 26(a)(1-3)
28 U.S.C. § 473

CIVIL RULE 30.1
LIMITATION OF DEPOSITION

In conformance with Federal Rules of Civil Procedure 30, there is a presumption that no more than ten (10) depositions per party will be taken by the parties. The parties should, however, be prepared at the scheduling conference to discuss whether the presumptive level should be decreased or increased due to the nature of the litigation.

RELATED AUTHORITY

Fed. R. Civ. P. 30

CIVIL RULE 33.1
LIMITS ON INTERROGATORIES

No party shall serve upon any other single party to an action more than 40 interrogatories, including subparts, (which will be counted as separate interrogatories), without first obtaining a stipulation of such party to additional interrogatories or, in the event the parties are unable to agree, obtaining an order of the court upon showing of good cause granting leave to serve a specific number of additional interrogatories.

RELATED AUTHORITY

Fed. R. Civ. P. 33
28 U.S.C. § 473

CIVIL RULE 37.1
DISCOVERY DISPUTES

Unless otherwise ordered, the court will not entertain any discovery motion, except those motions brought by a person appearing *pro se* and those brought pursuant to Rule 26(c) by a person who is not a party, unless counsel for the moving party files with the court, at the time of filing the motion, a statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion.

RELATED AUTHORITY

Fed. R. Civ. P. 26(f) and 37(a)(B)

CIVIL RULE 37.2
FORM OF DISCOVERY MOTIONS

(a) Any discovery motion filed pursuant to Fed. R. Civ. P. 26 and 37 shall include, in the motion itself or in an attached memorandum, a verbatim recitation of each interrogatory, request, answer, response, and objection which is the subject of the motion or a copy of the actual discovery document which is the subject of the motion.

(b) The party filing the motion shall specify separately and with particularity each issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue. The motion must be set forth in one document and contain all such issues in dispute and the contentions and points and authorities of each party. The motion shall not refer the court to other documents in the file. For example, if the sufficiency of an answer to an interrogatory is in issue, the motion shall contain, verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated.

RELATED AUTHORITY

Fed. R. Civ. P. 26(c), 37(a), 78

CIVIL RULE 38.1
NOTATION OF "JURY DEMAND" IN THE PLEADING

If a party demands a jury trial by endorsing it on a pleading, as permitted by Fed. R. Civ. P. 38(b), a notation shall be placed on the front page of the pleading, immediately following the title of the pleading, stating "Demand For Jury Trial" or an equivalent statement. This notation will serve as a sufficient demand under Rule 38(b). Failure to use this manner of noting the demand will not result in a waiver under Rule 38(d).

RELATED AUTHORITY

Fed. R. Civ. P. 38(b)

CIVIL RULE 39.1
OPENING STATEMENTS AND CLOSING ARGUMENTS

(a) Opening Statements.

Prior to offering any evidence, counsel for the plaintiff shall make a statement of the facts which counsel intends to establish in support of plaintiff's claim, unless such statement is waived with permission of the court. Such waiver or statement shall be made as a matter of record. Following the statement of plaintiff or at the opening of defendant's case, at the election of counsel for the defendant, the defendant's counsel shall make a statement of facts which defendant's counsel intends to establish, unless such statement is waived with permission of the court. Such waiver or statement shall be made as a matter of record.

(b) **Arguments.**

Only one attorney shall open and one attorney shall close, except with the permission of the court; provided that if the opening attorney does not intend to close, the opening attorney shall so inform the court so that the court may appropriately apportion the arguments between the counsel.

RELATED AUTHORITY

None

CIVIL RULE 40.1
ASSIGNMENT OF CASES

With the exception of death penalty cases, all actions, causes, and proceedings, civil and criminal, shall be assigned by the clerk to the respective judges of the court by lot. However, all cases to be heard in the northern or eastern calendar areas shall be automatically assigned by the clerk to the judge currently in charge of the calendar for that particular calendar area. If it appears that a case has been improperly assigned for any reason, the court may, in its discretion, reassign the case to another calendar area without prior notice.

RELATED AUTHORITY

28 U.S.C. § 137
Fed. R. Civ. P. 40

CIVIL RULE 41.1
DISMISSAL OF ACTIONS

Actions or proceedings which have been pending in this court for more than six (6) months without any proceedings having been taken therein during such period may, after notice, be dismissed by the court for lack of prosecution. Such dismissal shall be without prejudice, unless otherwise ordered.

RELATED AUTHORITY

Fed. R. Civ. P. 41

CIVIL RULE 43.1
EXAMINATION OF WITNESSES

Only one attorney for each party shall examine or cross-examine a witness except with the permission of the court.

RELATED AUTHORITY

None

CIVIL RULE 47.1
VOIR DIRE OF JURORS

(a) The jury box shall be filled before examination on voir dire. The court will examine the jurors as to their qualifications and, if permitted, will direct the order and manner of examination by counsel. Not less than five (5) days before trial, attorneys may submit written requests for voir dire questions.

(b) The Court, after reviewing the complexity and possible length of the case, will determine the number of trial jurors necessary. This number of jurors, not less than six nor more than twelve, plus a number of jurors equal to the total number of peremptory challenges which are allowed by law, shall be called in the first instance. These jurors constitute the initial panel. As the initial panel is called, the clerk shall assign numbers to the jurors in the order in which they are called. If any juror in the initial panel is excused for cause, an additional juror shall be immediately called to fill out the initial panel. A juror called to replace a juror excused shall take the number of the juror who has been excused. When the initial panel is qualified, the parties shall exercise their peremptory challenges secretly and alternately, with plaintiff exercising the first challenge. When peremptory challenges have all been exercised or waived, the court shall call the names of the selected jurors having the lowest assigned numbers. These jurors shall constitute the trial jury. All jurors selected will deliberate on the verdict.

RELATED AUTHORITY

Fed. R. Civ. P. 47
28 U.S.C. § 1870

CIVIL RULE 51.1
INSTRUCTIONS TO JURY

(a) Submission of Proposed Jury Instructions. In the case of a jury trial, written proposed jury instructions and any request for special interrogatories and special verdict forms shall be prepared and filed by counsel at least fourteen (14) days prior to the date of trial, but the court may, in its discretion, receive additional requests during the course of the trial.

Counsel shall file an original and two copies of proposed instructions and requests for special interrogatories and/or special verdict forms with the Clerk of Court. The original of each proposed instruction, requests for special interrogatory, and/or special verdict shall be numbered, shall indicate the identity of the party presenting the same and shall contain citations of authority. The two copies provided as judge's copies shall include: (1) a numbered set with citations [a copy of the original set of instructions which was filed with the court] and (2) a clean set of instructions [no numbers, party identification, or citations]. Individual instructions shall embrace one subject only, and the principle of law so embraced in any request for instruction shall not be repeated on subsequent requests. The original and all copies must have a cover sheet. Proposed jury instructions, requests for special interrogatories, and/or special verdict forms should also be submitted on a 3.5 inch diskette in a WordPerfect IBM-compatible 6.X format for use by the court.

(b) Objections to Requested Instructions. Copies of requested instructions together with any requests for special interrogatories and/or special verdicts shall be served upon the adverse party at the time of filing a copy with the clerk as hereinabove provided. The adverse party shall, at least one day prior to trial, specify objections to any of said instructions. Such objections shall be submitted in writing (or orally, if permitted by the court), shall be numbered, and shall identify the instructions objected to by number, and specify distinctly the matter to which said adverse party objects; said objection shall be accompanied by citations of authority in support thereof.

(c) Objections to the Instructions Given by the Court. The trial judge shall fix the time, place, and procedure for making objections to the judge's charge to the jury. Objections shall be made outside the presence of the jury and shall be reported by the court reporter in the transcript.

(d) Instructions to the Jury. The jury shall be instructed by the court, as provided in Fed. R. Civ. P. 51 either before or after arguments by counsel, or both, at the court's election. One copy of the final jury instructions, as given by the court, shall be docketed and become a part of the permanent case file.

RELATED AUTHORITY

Fed. R. Civ. P. 51

CIVIL RULE 54.1

TAXATION OF COSTS

(a) Within fourteen (14) days after entry of judgment, under which costs may be claimed, the prevailing party may serve and file a cost bill requesting taxation of costs itemized thereon. Said party shall also submit copies for all parties on which the clerk shall endorse the clerk's action and which shall be mailed to all such parties when costs have been taxed. The cost bill shall itemize the costs claimed and be supported by a certificate of counsel that the costs are correctly stated, were necessarily incurred, and are allowable by law. The court will enforce the provisions of 28 U.S.C. § 1927 in the event an attorney or other person admitted to practice in this court causes an unreasonable increase in costs. Not less than twenty (20) days after receipt of a party's cost bill, the clerk, after consideration of any objections thereto, shall tax costs and shall serve copies of the cost bill upon all parties of record. The cost bill should reflect the clerk's action as to each item contained therein. Within fourteen (14) days after service by any party of its cost bill, any other party may serve and file specific objections to any items setting forth the grounds therefor.

(b) Costs shall be taxed in conformity with the provisions of 28 U.S.C. §§ 1920-1923 and such other provisions of law as may be applicable and such directives as the court may from time to time issue. Taxable items include:

(1) Clerk's Fees and Service Fees. Clerk's fees (see 28 U.S.C. § 1920) and service fees are allowable by statute. Fees required to remove a case from the state court to federal court are allowed as follows: fees paid to clerk of state court; fees for services of process in state court; costs of documents attached as exhibits to documents necessarily filed in state court, and fees for witnesses attending depositions before removal.

(2) Trial Transcripts. The cost of the originals of a trial transcript, a daily transcript and of a transcript of matters prior or subsequent to trial, furnished the court is taxable at the rate authorized by the Judicial Conference when either requested by the court, or prepared pursuant to stipulation. Mere acceptance by the court does not constitute a request. Copies of transcripts for counsel's own use are not taxable in the absence of a special order of the court.

(3) Deposition Costs. The reporter's charge for the original deposition and copy is taxable whether or not the same is actually received in evidence, or whether or not it is taken solely for discovery. Other copies are not taxable, regardless of which party took the deposition. The reasonable expenses of the deposition reporter, and the notary, or other official presiding at the taking of the depositions are taxable, including travel and subsistence. Counsel's fees, expenses in arranging for taking of a deposition are not taxable. Fees for the witness at the taking of a deposition are taxable at the same rate as for attendance at trial. The witness need not be under subpoena. A reasonable fee for a necessary interpreter at the taking of a deposition is taxable.

(4) Witness Fees, Mileage and Subsistence. The rate for witness fees, mileage and subsistence are fixed by statute (see 28 U.S.C. § 1821). Such fees are taxable even though the witness does not take the stand, provided the witness necessarily attends the court. Such fees are

taxable even though the witness attends voluntarily upon request and is not under subpoena. The mileage taxation is that which is traveled based on the most direct route. Mileage fees for travel outside the district shall not exceed 100 miles each way without prior court approval. Witness fees and subsistence are taxable only for the reasonable period during which the witness is within the district. No party shall receive witness fees for testifying in his or her own behalf but this shall not apply where a party is subpoenaed to attend court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than that statutorily allowable for ordinary witnesses. Allowance of fees for a witness on deposition shall not depend on whether or not the deposition is admitted in evidence.

(5) Exemplification and Copies of Papers. The cost of an exhibit necessarily attached to a document (or made part of a deposition transcript) required to be filed and served is taxable. The cost of copies submitted in lieu of originals because of the convenience of offering counsel or his or her client are not taxable. The cost of reproducing copies of motions, pleadings, notices and other routine case papers is not taxable. The cost of reproducing the required number of copies of the clerk's record on appeal is allowable.

(6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The cost of maps and charts are taxable if they are admitted into evidence. The cost of photographs 8" by 10" in size or less, are taxable if admitted into evidence, or attached to documents required to be filed and served on opposing counsel. Enlargements greater than 8" by 10" are not taxable except by order of the court. The cost of models is not taxable except by order of the court. The cost of compiling summaries, computations and statistical comparisons is not taxable.

(7) Interpreter Fees. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable. The reasonable fee of a competent translator is taxable if the document translated is necessarily filed, or admitted in evidence.

(8) Docket Fees. Docket fees and costs of briefs are taxable pursuant to 28 U.S.C. § 1923.

(9) Other items may be taxed with prior court approval.

(10) The certificate of counsel required by 28 U.S.C. § 1924 and the District of Idaho Local Civil and Criminal Rules of Practice shall be prima facie evidence of the facts recited therein. The burden is on the opposing party to establish that a claim is incorrectly stated, unnecessary or unreasonable.

(c) A review of the decision of the clerk in the taxation of costs may be taken to the court on a motion to retax by any party, pursuant to Fed. R. Civ. P. 54(d), upon written notice thereof, served and filed with the clerk within five (5) days after the costs have been taxed in the clerk's office, but not afterwards. The motion to retax shall particularly specify the ruling of the clerk excepted to,

and no others will be considered. The motion will be considered and determined upon the same papers and evidence used by the clerk and upon such memorandum of points and authorities as the court may require. A hearing may be scheduled at the discretion of the trial judge.

RELATED AUTHORITY

Fed. R. Civ. P. 54(d)
28 U.S.C. § 1821
28 U.S.C. § 1920

CIVIL RULE 54.2
JURY COST ASSESSMENT

When a civil action has been settled or otherwise disposed of in or out of court, it is the duty of counsel to inform the clerk by 3 p.m. of the day immediately prior to trial. Costs may be assessed against counsel for failure to do so. In the event that failure to give notice hereunder results in the reporting of prospective jurors for service in the case, costs may include one day's fees for prospective jurors so reporting.

RELATED AUTHORITY

None

CIVIL RULE 54.3
AWARD OF ATTORNEY FEES

(a) Claims for attorney fees will not be treated as routine items of costs. Attorney fees will only be allowed upon an order of a judge of the court after such fact finding process as the judge shall order.

(b) Within fourteen (14) days after entry of final judgment, a party claiming the right to allowance of attorney fees may file and serve a petition for such allowance. The petition shall state the amount claimed and cite the legal authority relied on. The petition shall be accompanied by an affidavit of counsel setting forth the following: (1) date(s), (2) service(s) rendered, (3) hourly rate, and (4) hours expended; a statement of attorney fee contract with the client; and information, where appropriate, as to other factors which might assist the court in determining the dollar amount of fee to be allowed. Petitions for attorney fees and cost bills shall be filed as separate documents. Failure to comply with this requirement will result in delay in processing.

(c) Within fourteen (14) days after receipt of a party's petition for allowance of attorney fees, any other party may serve and file objections to the allowance of fees or any portion thereof. The objecting party shall set forth specific grounds of objection.

RELATED AUTHORITY

28 U.S.C. § 2412

CIVIL RULE 56.1
SUMMARY JUDGMENT PROCEDURE

(a) There shall be served and filed with each motion for summary judgment a concise statement of the material facts as to which the moving party contends there are no genuine issues of dispute.

(b) Any party opposing the motion may, not later than fourteen (14) days after the service of the motion on such opposing party, serve and file a concise statement setting forth all material facts as to which it is contended there exists genuine issues necessary to be litigated.

RELATED AUTHORITY

Fed. R. Civ. P. 7(b), 56, 78

CIVIL RULE 58.1
ENTRY OF JUDGMENT

In every action or proceeding terminating in a judgment, there shall be filed, separate from any findings of fact, conclusions of law, memorandum, opinion, or order, a judgment which shall state in simple and direct terms the judgment of the court, shall be signed by the judge or the clerk as allowed by D. Id. L. Civ. R. 77.2 and shall comply in other respects with Fed. R. Civ. P. 58.

RELATED AUTHORITY

Fed. R. Civ. P. 58

CIVIL RULE 58.2
SATISFACTION OF JUDGMENT

Whenever the amount directed to be paid by any judgment or order, together with interest (if interest accrues) and the clerk's statutory charges, shall be paid into court by payment to the clerk, the clerk shall enter satisfaction of said judgment or order. The court shall enter satisfaction of any judgment or order on behalf of the United States upon the filing of a written acknowledgment of satisfaction thereof by the United States Attorney, and in other cases, upon the filing of a written acknowledgment of satisfaction made by the judgment-creditor and the judgment-creditor's attorney, and by the legal representatives or assigns of the judgment-creditor with evidence of their authority, within two years after the date of entry of the judgment or order, and thereafter upon written acknowledgement by the judgment-creditor or by the judgment-creditor's legal representatives or assigns with evidence of their authority.

RELATED AUTHORITY

Fed. R. Civ. P. 54, 58, 79(a)(b)

CIVIL RULE 62.2
SUPERSEDEAS BONDS

(a) Approval, Filing, and Service. If eligible under D. Id. L. Civ. R. 67.1, the bond may be approved and filed by the clerk. A copy of the bond plus notice of filing shall be served on all affected parties promptly.

(b) Objections. The court shall determine objections to the form of the bond or sufficiency of the surety.

(c) Execution. Except where otherwise provided by Fed. R. Civ. P. 62, or order of the court, execution may issue after ten (10) days from the entry of a judgment unless a supersedeas bond has been approved by the judge or the clerk.

RELATED AUTHORITY

None

CIVIL RULE 65.1.1
SECURITY; PROCEEDING AGAINST SURETIES

(a) The Judgment. Every bond within the scope of these rules will contain the surety or sureties' consent that in case of the principal's or sureties' default, upon notice of not less than seventeen (17) days, the court may proceed summarily and render judgment against them and award execution.

(b) Service. Any indemnitee or party in interest who seeks the judgment provided by these rules will proceed by motion and with respect to personal sureties and corporate sureties will make the service provided by Fed. R. Civ. P. 5(b) or 31 U.S.C. § 9306, respectively.

RELATED AUTHORITY

Fed. R. Civ. P. 65.1

CIVIL RULE 65.1.2
BONDS AND OTHER SURETIES

(a) Bonds and Sureties.

(1) When Required. A judge may, upon demand of any party, where authorized by law and for good cause shown, require any party to furnish security for costs which may be awarded against such party in an amount and on such items as are appropriate.

(2) Qualifications of Surety.

(A) Every bond must have as surety either: (1) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under 31 U.S.C. §§ 9301-9308; (2) a corporation authorized to act as surety under the laws of the state of Idaho; (3) two individual residents of the district, each of whom owns real or personal property within the district of sufficient equity value to justify twice the amount of the bond; or (4) a cash deposit of the required amount made with the Clerk and filed with a bond signed by the principals.

(B) An individual who executes a bond as a surety pursuant to this subsection will attach an affidavit which gives the individual's full name, occupation, residence, and business addresses and demonstrates ownership of real or personal property within this district. After excluding property exempt from execution and deducting liabilities (including those which have arisen by virtue of suretyship on other bonds or undertakings), the real or personal property must be valued at no less than twice the amount of the bond.

(3) Court Officers as Sureties. No clerk, marshal, or other employee of the court nor any member of the bar representing a party in the particular action or proceeding shall be accepted as surety on any bond or other undertaking in any action or proceeding in this court. Cash deposits on bonds may be made by members of the bar on certification that the funds are the property of a specified person who has signed as surety on the bond. Upon exoneration of the bond, such monies shall be returned to the owner and not to the attorney.

(4) Examination of Sureties. Any party may apply for an order requiring any opposing party to show cause why it should not be required to furnish further or different security or requiring personal sureties to justify their financial status in support of their bond.

(b) Approval of Bonds by Attorneys and Clerk (or Judge). All personal surety bonds must be presented to the judge for approval. When the party is represented by counsel, there shall be appended thereto a certificate of the attorney for the party for whom the bond is being filed substantially in the following form:

This bond has been examined by counsel (for plaintiff/defendant) and is recommended for approval as provided in this rule.

Dated this _____ day of _____, ____.

_____
Attorney

Such endorsement by the attorney will signify to the court that said attorney has carefully examined the said financial information of the personal surety, that the attorney knows the contents thereof; that the attorney knows the purposes for which it is executed; that in the attorney's opinion the same is in due form; and that the attorney believes the affidavits of qualification to be true.

RELATED AUTHORITY

Fed. R. Civ. P. 65(c), 65.1
28 U.S.C. § 1446

CIVIL RULE 67.1
DEPOSITS

(a) Whenever a party seeks an order for money to be deposited by the clerk in an interest bearing account, the party shall prepare a form of order in accord with the following.

(b) The following form of standard order shall be used for the deposit of registry funds into interest bearing accounts or the investment of such funds in an interest bearing instrument:

> IT IS ORDERED that the clerk invest the amount of $_____ in an automatically renewable (type of account or instrument, i.e., time certificate, treasury bill, passbook), in the name of the clerk, U.S. District Court, at (name of bank, savings and loan, brokerage house, etc.), said funds to remain invested pending further order of the court.
>
> IT IS FURTHER ORDERED that the clerk shall be authorized to deduct a fee from the income earned on the investment equal to 10 percent of the income earned while the funds are held in the court's registry fund, regardless of the nature of the case underlying the investment and without further order of the court. The interest payable to the U.S. courts shall be paid prior to any other distribution of the account. Investments having a maturity date will be assessed the fee at the time the investment instrument matures.
>
> IT IS FURTHER ORDERED that counsel presenting this order personally serve a copy thereof on the clerk or his or her financial deputy.

RELATED AUTHORITY

Fed. R. Civ. P. 67
28 U.S.C. § 2041-2042
General Order 70, December 6, 1990

CIVIL RULE 67.2
WITHDRAWAL OF A DEPOSIT PURSUANT TO FED. R. CIV. P. 67.

(a) Funds may only be withdrawn upon an order of this court. Such order shall specify the amounts to be paid and the names of any person or company to whom the funds are to be paid.

(b) Any person seeking withdrawal of money which was deposited in the court pursuant to Rule 67 and which was subsequently deposited into an interest-bearing account or instrument as required by Rule 67, shall provide, on a separate paper attached to the motion seeking withdrawal of the funds, the social security number or tax identification number of the ultimate recipient of the funds. This separate paper shall be forwarded by the court directly to the institution holding the money.

RELATED AUTHORITY

Fed. R. Civ. P. 67
28 U.S.C. § 2041-2042

CIVIL RULE 71A.1
CONDEMNATION CASES

In eminent domain proceedings, additional pretrial disclosure shall be made as follows:

(a) Not later than ten (10) days in advance of the pretrial conference each party appearing shall lodge with the clerk, under seal, the original and sufficient additional copies for the judge and all parties appearing, of a summary "Statement of Comparable Transactions." Said summary shall contain the relevant facts as to each sale or other transaction to be relied upon as comparable to the taking, including the alleged date of such transaction, the names of the parties thereto, and the consideration thereof; together with the date of recordation and the book and page or other identification of any record of such transaction; and such statement shall be in form and content suitable to be presented to the jury as a summary of evidence on the subject. As soon as such statement shall have been lodged by all parties appearing in connection with a particular parcel or parcels of property in issue, the clerk shall unseal the statements, regularly file the originals, and forthwith serve copies of each party's statement by United States Mail on the attorneys for the other parties appearing. Each copy so served shall bear the clerk's stamp showing the filing date of the original;

(b) Not later than the date of filing of the statements required under the foregoing paragraph, each party shall lodge with the clerk, under seal, for examination by the judge *in camera*, the original and one copy of "Schedule of Witnesses as to Value," setting forth:

(1) The names of all persons, including expert appraisers, owners, and former owners, intended to be called to give opinion evidence as to the value, and

(2) The opinion to be given by each.

(c) The provisions of this subsection do not preclude prior or additional discovery as provided in the Federal Rules of Civil Procedure.

RELATED AUTHORITY

Fed. R. Civ. P. 71A
33 U.S.C. § 594
40 U.S.C. § 258
42 U.S.C. § 2222

CIVIL RULE 72.1
MAGISTRATE JUDGE RULES

(a) Authority of United States Magistrate Judges.

(1) All United States magistrate judges of this court are authorized to perform the duties prescribed by 28 U.S.C. § 636(a), (b), (c), and (g).

(2) Prisoner Cases Under 28 U.S.C. §§ 2254 and 2255. The magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the United States district courts under § 2254 and § 2255 of Title 28 United States Code. In so doing, the magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and shall submit to a judge a report containing proposed findings of fact and recommendations for disposition of the petition or motion by the judge except in cases where the death penalty has been imposed; in which case, the district judge shall conduct the evidentiary hearing, if necessary. Any order disposing of the petition or motion may only be made by a district judge.

(3) Prisoner Cases Under 42 U.S.C. § 1983. The magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and shall submit to a judge a report containing proposed findings of fact and recommendations for the disposition of petitions or complaints filed by prisoners challenging the conditions of their confinement.

(4) Special Master References. A magistrate judge may be designated by a district judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53(b) and 54.

(5) Preliminary Proceedings in Probation Cases. Magistrate judges may conduct preliminary proceedings in probation matters pursuant to Fed. R. Cr. P. 32.1.

(6) A magistrate judge is also authorized to:

(A) Exercise general supervision of civil and criminal calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the judges;

(B) Conduct pretrial conferences, settlement conferences, *omnibus* hearings, and related pretrial proceedings in civil and criminal cases;

(C) Preside over all arraignments before the district court, accept pleas of not guilty, establish the times within which all pretrial motions will be filed and responded to, and fix trial dates. If a plea of guilty or *nolo contendere* is offered, the matter will be forthwith calendared before a district judge;

(D) Impanel the Grand Jury, preside when the Grand Jury reports and accept for the court any indictments returned, issue warrants and summonses as appropriate, and establish the terms of release pending trial, continue the same if previously fixed or modify the terms of release as he or she shall see fit;

(E) Accept waivers of indictment, pursuant to Fed. R. Cr. P. 7(b);

(F) Conduct voir dire and select petit juries for the court in civil cases with the consent of the parties;

(G) Accept petit jury verdicts in civil and criminal cases at the request of a district judge and fix dates for imposition of sentence;

(H) Issue subpoenas, writs of habeas corpus *ad testificandum* or habeas corpus *ad prosequendum*, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings.

(I) Order the exoneration or forfeiture of bonds;

(J) Fix the terms of release pending appeal to the court of appeals

(K) Conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69; and

(L) Perform any additional duty that is not inconsistent with the Constitution and laws of the United States.

(b) Objections to Magistrate Judge's Orders, Reports, and Recommendations.

(1) Nondispositive Matter - 28 U.S.C. § 636 (b)(1)(A). When a pretrial matter not dispositive of a claim or defense of a party is referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A), the magistrate judge shall conduct such proceedings as are required and when appropriate enter a written order setting forth its ruling on the matter.

A party shall serve and file any objections to such order within ten (10) days after being served with a copy of the magistrate judge's order, unless a different time period is set by the magistrate or district judge. A party waives his or her right to assign as error any defect in the magistrate judge's order to which a timely objection has not been filed. A party may respond to another party's objections within ten (10) days after being served with a copy thereof. The district court to whom the case is assigned shall consider such objections and shall modify or set aside any portion of the order found to be clearly erroneous or contrary to law. The district court may also consider sua sponte any order found to be clearly erroneous or contrary to law. [Fed. R. Civ. P. 72(a)].

(2) Dispositive Matters - 28 U.S.C. § 636(b)(1)(B). When a pretrial matter dispositive of a claim or defense of a party, a post-trial motion for attorney fees, or a prisoner petition

is referred to a magistrate judge without consent of the parties pursuant to 28 U.S.C. § 636(b)(1)(B), the magistrate judge shall conduct such proceedings as required. The magistrate judge shall enter a recommendation for disposition of the matter, including proposed findings of fact when appropriate.

A party objecting to the recommended disposition of the matter shall serve and file specific, written objections to the proposed findings and recommendations within ten (10) days after being served with a copy of the magistrate judge's report and recommendation. A party may respond to another party's objections within ten (10) days after being served with a copy thereof. The district judge to whom the case is assigned shall make a de novo determination of any portion of the magistrate judge's recommended disposition to which specific objection has been made. The district court may also consider sua sponte any portion of the proposed disposition. The district judge may accept, reject, or modify the recommended disposition, receive further evidence, or recommit the matter to the magistrate judge with directions..

(3) Special Master Reports--28 U.S.C. § 636(b)(2). Any party may seek review of, or action on, a special master report filed by a magistrate judge in accordance with the provisions of Fed. R. Civ. P. 53(e).

RELATED AUTHORITY

Fed. R. Civ. P. 72
Fed. R. Civ. P. 54(d)(2)(D) (attorney fees)
Fed. R. Civ. P. 53(e)

CIVIL RULE 73.1
REASSIGNMENT OF CIVIL CASES
TO A MAGISTRIATE JUDGE
UPON THE CONSENT OF THE PARTIES

Upon the consent of the parties, a civil case may be reassigned from a district judge to a magistrate judge under 28 U.S.C. § 636(c) for any and all proceedings in a jury or non-jury matter, including pretrial, trial, and post-trial motions, and ordering the entry of judgment.

(a) Notice. The Clerk of Court shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. The consent notice and election to proceed form shall be handed or mailed to the initiating party or his or her representative at the time an action is filed and initiating party shall cause a copy of the consent notice and election to proceed form to be served on all opposing parties with the complaint and summons. Additional consent notices and election to proceed forms may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

(b) Reassignment. After the election to proceed form has been executed and filed by all parties, the clerk shall transmit it to the district judge to whom the case has been assigned for consideration of reassignment of the case to a magistrate judge. Once the case has been reassigned to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the Clerk of Court to enter a final judgment in the same manner as if a district judge had presided.

RELATED AUTHORITY

None

CIVIL RULE 77.1
HOURS OF THE COURT

(a) Location and Hours. The office of the Clerk of Court shall be at the United States Courthouse, 550 West Fort Street MSC 039, Room 400, Boise, Idaho 83724. The regular hours shall be from 8 a.m. to 5 p.m. each day except Saturday, Sunday, and legal holidays or other days so ordered by the court. Divisional offices are located at: 220 E. 5th Street, Room 304, Moscow, Idaho 83843; 250 S. 4th Ave., Room 263, Pocatello, Idaho 83201; and 205 N. 4th, 2nd Floor, Room 202, Coeur d'Alene, Idaho 83814.

(b) Filings may be made before and after regular office hours or on Saturdays, Sundays, and legal holidays by using the 24-hour filing box located outside the entrance to the Federal Building at each location. Documents with cash must be filed at the Clerk's Office.

RELATED AUTHORITY

Fed. R. Civ. P. 77(c)

CIVIL RULE 77.2
ORDERS AND JUDGMENTS GRANTABLE BY THE CLERK OF COURT

The Clerk is authorized to sign and enter orders specifically allowed to be signed by the clerk under the Federal Rules of Civil Procedure and is authorized to sign and enter the following orders without further direction of a judge:

(a) Orders specifically appointing persons to serve process or for service of process by publication in accordance with Fed. R. Civ. P. 4;

(b) Orders by stipulation noting satisfaction of a judgment, providing for the payment of money, withdrawing stipulations, annulling bonds, exonerating sureties or setting aside a default;

(c) Order of dismissal by stipulation, with or without prejudice, except in cases to which Rules 23, 23.1, or 66 of Fed. R. Civ. P. apply;

(d) Orders entering default for failure to plead or otherwise defend in accordance with Fed. R. Civ. P. 55;

(e) Any other orders which pursuant to Fed. R. Civ. P. 77(c) do not require direction by the court;

(f) Orders for extension of time may be entered by the clerk upon stipulation of all parties. An *ex parte* motion for extension of time not to exceed fifteen (15) days may be granted once, at the discretion of the clerk, if accompanied by a statement showing specific reasons for the extension of time and that opposing counsel has been contacted and does not object. Any opposing party may move to have the extension of time set aside. Orders for extension of time shall be limited to:

(1) Motion to dismiss or answer to complaint;

(2) Answer or objection to interrogatories under Fed. R. Civ. P.31 and 33;

(3) Response to requests for production or for inspection under Fed. R. Civ. P. 34; and

(4) Response to requests for admissions under Fed. R. Civ. P. 36.

(g) Orders granting application by attorneys to proceed pro hac vice pursuant to Rule 83.5.

RELATED AUTHORITY

Fed. R. Civ. P. 77(c)

Civ Rule 77.2

CIVIL RULE 77.4
SESSIONS OF THE COURT

(a) This court shall be in continuous session for transacting judicial business in Boise, Idaho, on all business days throughout the year and shall hold sessions of court in Coeur d'Alene, Moscow, and Pocatello, Idaho, at such times as the judicial workload of this court may warrant.

(b) Any judge of this court may, in the interest of justice or to further the efficient performance of the business of the court, conduct proceedings at a special session at any time, anywhere in the district, on request of a party or otherwise.

RELATED AUTHORITY

Fed. R. Civ. P. 77
28 U.S.C. §§ 138-139
28 U.S.C. § 141

CIVIL RULE 77.6
UNITED STATES COURT LIBRARY

The Ninth Circuit law library is located on the sixth floor of the Federal Building and United States Courthouse in Boise, Idaho. The library is for the primary use of judges and personnel of the federal court.

In addition, attorneys admitted to practice in this court may use the library when circumstances require. The library is operated in accordance with such rules and regulations as the court may from time to time adopt.

RELATED AUTHORITY

None

CIVIL RULE 77.7
EX PARTE COMMUNICATION WITH JUDGES

Attorneys or parties to any action or proceeding should refrain from writing letters to the judge, or otherwise communicating with the judge unless opposing counsel is present. All matters to be called to a judge's attention should be formally submitted as hereinafter provided.

RELATED AUTHORITY

None

CIVIL RULE 79.1
CUSTODY OF FILES AND EXHIBITS

(a) Files. All files of the court shall remain in the custody of the clerk and no court pleadings, documents, exhibits, etc, shall be taken from the custody of the clerk without a special order of a judge and a proper receipt signed by the person obtaining the pleading or court document. Orders shall be granted only in extraordinary circumstances.

(b) Exhibits and Transcripts.

(1) The exhibits offered or admitted at trial shall be retained by the Clerk until the time for appeal has expired. After the time for appeal has elapsed, normally thirty (30) days, the exhibits shall be returned to the party or attorney offering the exhibit.

(2) In the event an appeal is prosecuted by any party, the Ninth Circuit will specifically request exhibits it believes are relevant.

(3) If any party, having received notice from the clerk concerning the removal of appellate exhibits, fails to do so within thirty (30) days from the date of such notice, the clerk may destroy or otherwise dispose of those exhibits.

RELATED AUTHORITY

None

CIVIL RULE 81.1
REMOVAL ACTIONS -- STATE COURT RECORDS

This rule applies to civil actions removed to the United States District Court for the District of Idaho from the state courts and governs procedure after removal. The removing party shall file a complete copy of the state court record and a copy of the docket sheet at the time of removal. Such state court record shall be filed with a supplemental civil cover sheet for notices of removal as provided by the Clerk of Court. (See D. Id. L. Civ. R. 5.1(d)(2))

RELATED AUTHORITY

Fed. R. Civ. P. 81(c)

Civ Rule 81.1 NEW 8/1/97

CIVIL RULE 83.1
FREE PRESS - FAIR TRIAL PROVISIONS

(a) Publicity. Courthouse supporting personnel, including, among others, clerks and deputies, law clerks, messengers, and court reporters, shall not disclose to any person information relating to any pending criminal or civil proceeding that is not part of the public records of the court without specific authorization of the court, nor shall any such personnel discuss the merits or personalities involved in any such proceeding with any members of the public. United States Marshals coming into possession of confidential information obtained from the court shall not disclose such information unless necessary for official law enforcement purposes.

(b) Confidentiality. All courthouse support personnel are specifically prohibited from divulging information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

(c) Conduct of Proceedings in a Widely Publicized or Sensational Case.

(1) In a widely publicized or sensational case likely to receive massive publicity, the court, on its own motion, or on motion of either party, may issue a special order governing such matters as extrajudicial statements by lawyers, parties, witnesses, jurors, and court officials likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matter which the court may deem appropriate for inclusion in such an order.

(2) Nothing in this rule or in any other criminal rule of this court is intended to restrict the media's right to full pretrial coverage of news pursuant to the First Amendment to the United States Constitution.

(d) Photographs, Broadcasts, Video Tapes, and Tape Recordings Prohibited.

(1) All forms, means, and manner of taking photographs, tape recordings, video taping, broadcasting, or televising are prohibited in a United States courtroom or its environs during the course of, or in connection with, any judicial proceedings whether the court is actually in session or not. This rule shall not prohibit recordings by a court reporter or staff electronic recorder. No court reporter, staff electronic recorder, or any other person shall use or permit to be used any part of any recording of a court proceeding on or in connection with any radio, video tape or television broadcast of any kind. The court may permit photographs of exhibits or use of video tapes or tape recordings under the supervision of counsel.

(2) A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings.

(3) In a complex case, counsel, with the prior permission of the court, may bring into court an unobtrusive hand-held dictating machine for use in dictating notes or reminders during trial. It is not to be used to record any part of the proceedings.

(e) For purposes of this rule, *environs* means:

(1) In Boise, Idaho, the fifth and sixth floor of the Federal Building and United States Courthouse located at 550 West Fort Street, including the corridor area adjacent to the courtroom doors;

(2) In Moscow, Idaho, the third floor of the Federal Building and Courthouse located at 220 East Fifth Street;

(3) In Pocatello, Idaho, that portion of the second floor of the Federal Building and Courthouse at 250 South Fourth Street assigned for court use, including the corridor area adjacent to the courtroom doors; and

(4) In Coeur d'Alene, Idaho, the second floor of the Federal Building and Courthouse located at 205 North Fourth Street assigned for court use, including the corridor adjacent to the courtroom doors.

RELATED AUTHORITY

45 F.R.D. 391 (1969)
51 F.R.D. 135 (1971)
87 F.R.D. 519 (1980)

CIVIL RULE 83.2
COURTROOM AND COURTHOUSE DECORUM

Position of Counsel. Counsel for the respective parties shall be seated in accordance with instructions of the court bailiff. In examining a witness or addressing the court, counsel shall remain at counsel table or lectern, if one is available, except when permission is granted by the court to approach the bench, the clerk's desk, or a witness. All papers and exhibits shall be sent from counsel table to the court, courtroom clerk or witness by and through the bailiff unless permission is otherwise granted.

RELATED AUTHORITY

None

CIVIL RULE 83.3
SECURITY IN THE COURTHOUSE

The court, or any judge, may from time to time make such orders or impose such requirements as may be reasonably necessary to assure the security of the court and of all persons in attendance. To the extent deemed necessary, the court or judge may coordinate any orders relating to the security of the court and public with the U.S. Marshals Service.

RELATED AUTHORITY

None

CIVIL RULE 83.4
BAR ADMISSION

(a) Admission to the Bar of this Court. Admission to and continuing membership in the bar of this court is limited to attorneys of good moral character who are active members in good standing of the Idaho State Bar. Each applicant for admission shall present to the clerk a written petition for admission, stating the applicant's residence and office addresses and by what courts he or she has been admitted to practice and the respective dates of admission to those courts. The petition shall be accompanied by a certificate of a member of the bar of this court, stating that the bar member knows the applicant and can affirm that the applicant is of good moral character. Upon qualification, the applicant may be admitted upon written or oral motion as determined by the court. Before any certificate of admission shall issue, the applicant must sign the prescribed oath. Generally, the applicant must personally appear before the court; however, in exceptional circumstances the court may waive this requirement.

(b) Practice in this Court. Except as herein otherwise provided, only members of the bar of this court shall practice in this court. Only a member of the bar of this court may appear for a party, sign stipulations, or receive payment or enter satisfactions of judgment, decree, or order.

(c) Attorneys for the United States and Federal Defender Organizations. An attorney who is not eligible for admission under D. Id. L. Civ. R. 83.4 hereof but who is a member in good standing of and eligible to practice before the bar of any United States court or of the highest court of any state or of any territory or of any insular possession of the United States and who is of good moral character may practice in this court in any matter in which the attorney is employed or retained by the United States or its agencies and is representing the United States or any of its officers or agencies or in which the attorney is part of a federal defender organizations and is appointed by the court to represent a criminal defendant. (Criminal Rule 44.1). Attorneys so permitted to practice in this court are subject to the jurisdiction of the court with respect to their conduct to the same extent as members of the bar of this court.

(d) Appearances by Corporations. Whenever a corporation desires or is required to make an appearance in this court, the appearance shall be made only by an attorney of the bar of this court or an attorney permitted to practice under these Rules.

(e) Pro Hac Vice/Local Counsel. An attorney not eligible for admission under D. Id. L. Civ. R. 83.4(a) hereof, but who is a member in good standing of and eligible to practice before the bar of any United States court or of the highest court of any state or of any territory or insular possession of the United States, who is of good moral character and who has been retained to appear in this court, may, upon written application and in the discretion of the court, be permitted to appear and participate in a particular case and no certificate of admission shall be issued by the clerk.

The *pro hac vice* application shall be presented to the clerk and shall state under penalty of

perjury (1) the attorney's residence and office addresses, (2) by what court(s) the attorney has been admitted to practice and the date(s) of admission, (3) that the attorney is in good standing and eligible to practice in said court(s), and (4) that the attorney is not currently suspended or disbarred in any other court(s). Within thirty (30) days the attorney filing *pro hac vice* shall also (1) designate a member of the bar of this court who does maintain an office within this court as co-counsel with the authority to act as attorney of record for all purposes and (2) file with such designation the address, telephone number, and written consent of such designee.

All pleadings filed with the Clerk of Court must contain the names and addresses and original signatures of the attorney appearing *pro hac vice* and associated local counsel.

The designee shall personally appear with the attorney on all matters heard and tried before this court unless such presence is excused by the court. Original proceedings may be filed by an attorney before admission *pro hac vice*, but the time for the responsive pleading shall not begin to run until the appearance of associated local counsel is filed with the clerk.

(f) Non-Appropriated Fund.

(1) Attorneys admitted to the bar of this court under the conditions prescribed in D. Id. L. Civ. R.83.4 shall be required to pay to the Clerk of Court an admission fee of Seventy Dollars ($70.00).

(2) Attorneys not admitted to the bar of this court who, upon the filing of a verified petition for permission to practice in an individual case, are admitted under the conditions prescribed in D. Id. L. Civ. R. 83.4(e), shall be required to pay a fee of One Hundred Dollars ($100.00) for each such verified petition so filed.

(3) Monies deposited into the Non-Appropriated Fund must be used for purposes which inure to the benefit of members of the bench and bar of this court in the administration of justice.

(g) Legal Interns. Legal interns are permitted to appear in this court under the direction of a supervising attorney in accordance with the following provisions.

(1) Supervising Attorney: A supervising attorney shall be a member of the bar of this court in good standing and shall issue a written statement assuming the responsibility in this court as provided by Idaho Supreme Court Rule 123D or of any other duties and responsibilities that may be from time to time imposed by any other rule or order of this court or of any judge thereof.

(2) Upon presentation to the Clerk of Court of a certified copy of the legal intern's application to the Idaho State Bar and a certified copy of the legal intern's license as issued by the Idaho State Bar, and with the written approval of a judge of this court, the Clerk shall issue to the legal intern applicant a certificate of permission to practice as a legal intern. Such certified copies of

the application and the license issued by the Idaho State Bar shall be accompanied by a written statement of the supervising attorney assuming the responsibility in this court as provided by Rule 123D or of any other duties and responsibilities that may be from time to time imposed by any other rule or order of this court or of any judge thereof.

(3) Before the issuance of such certificate of permission to practice as a legal intern, the applicant shall take and subscribe an oath before the Clerk of Court or any judge of the court in such form as may be from time to time prescribed by the court.

(4) A legal intern may not appear before a district judge, bankruptcy judge, or magistrate judge without the actual presence of the supervising attorney, except that the legal intern may appear without the actual presence of the supervising attorney in all matters pertaining to petty offenses before magistrates judges of this court, if prior thereto or at the time of any such appearance there shall have been filed with the magistrate the written consent of the supervising attorney certifying as to the ability and the preparedness of the legal intern and the written consent of the client. Provided, however, that the legal intern may not appear alone with respect to petty offenses where imprisonment is likely to occur.

(5) A legal intern may conduct or actively participate in ex parte matters; contested motion practice; in civil, bankruptcy, or criminal; or in the trial of misdemeanors if the supervising attorney is present and the supervising attorney certifies to the court as to the ability and preparedness of the legal intern and upon filing the written consent of the client.

(6) Any admission to practice before this court is at the sufferance of the United States District and Bankruptcy Courts for the District of Idaho or of any judge thereof and may be terminated at any time, without notice, and with or without stated cause or reason.

(h) Notice of Change of Status. An attorney who is a member of the bar of this court or who has been permitted to practice in this court under D. Id. L. Civ. R. 83.4 hereof shall promptly notify the court of any change in his or her status in another jurisdiction which would make him or her ineligible for membership in the bar of this court under Local Rule 83.4. In the event the attorney is no longer eligible to practice in another jurisdiction by reason of his or her suspension for nonpayment of fees or enrollment as an inactive member, he or she shall forthwith be suspended from practice before this court without any order of court and until he or she becomes eligible to practice in such other jurisdiction.

(i) Notice of Change of Address. Any attorney who has been permitted to appear and participate in an action before this court must advise the court and other counsel of record, in writing, if that attorney has a change in name, firm, firm name, or office mailing address, by filing a document entitled "Notice of Change of Address" in each case in which he or she had made an appearance.

If the attorney is changing firms, he or she must formally, in writing as specified in D. Id. Civ. L.R. 83.6, withdraw from any active cases in which he or she intends to discontinue representation.

Until then, the authority and responsibility of the attorney of record shall continue for all proper purposes.

The Clerk's Office will assume record keeping responsibility only for address changes made in accordance with this rule.

RELATED AUTHORITY

General Order #132, District of Idaho

CIVIL RULE 83.5
ATTORNEY DISCIPLINE

(a) Standard of Professional Conduct. All members of the bar of this court and all attorneys permitted to practice in this court shall familiarize themselves with and comply with the standards of professional conduct required of members of the Idaho State Bar and decisions of any court applicable thereto which are hereby adopted as standards of professional conduct of this court. These provisions shall not be interpreted to be exhaustive of the standards of professional conduct. In that connection, the Idaho Rules of Professional Conduct for the Idaho State Bar should be noted. No attorney permitted to practice before this court shall engage in any conduct which degrades or impugns the integrity of the court or in any manner interferes with the administration of justice therein.

(b) Discipline.

(1) In the event any attorney engages in conduct which may warrant discipline or other sanctions, the court or any district judge may, in addition to initiating proceedings for contempt under Title 18 U.S.C. and Fed. R. Cr. P. 42, or imposing other appropriate sanctions pursuant to the court's inherent powers or the Fed. R. Civ. P., refer the matter to the disciplinary body of any court before which the attorney has been admitted to practice. A United States magistrate judge shall refer and certify any contempt proceedings to a district judge pursuant to 28 U.S.C. § 636(e).

(2) Any attorney admitted to practice in this court, who is convicted of a felony in any court of the United States, of the District of Columbia, or of any state, territory, commonwealth, or possession of the United States shall immediately be suspended from practice before this court, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise. The court shall issue an order to show cause directing the suspended attorney to demonstrate within thirty (30) days why the attorney should be reinstated to practice before the court during the pendency of any appeal. Upon the felony conviction becoming final, an order of disbarment will be entered, unless the attorney can show cause within thirty (30) days after notice and the opportunity to be heard, why disbarment would not be in the interest of justice.

(3) Upon the receipt by this court of a certified copy of a judgment or order showing that any attorney admitted to practice before this court has been suspended, disbarred or otherwise disciplined by any other court of the United states, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, this court shall notify and issue an order to show cause directing the suspended, disbarred, or otherwise disciplined attorney to demonstrate to this court within thirty (30) days why the imposition of the identical discipline would be unwarranted.

Upon the expiration of thirty (30) days after notification and the opportunity to be heard, this

court shall impose the identical discipline unless the attorney clearly demonstrates or this court finds that:

(1) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(2) there was such an absence of proof establishing misconduct that the court would not accept as final the conclusions reached;

(3) the imposition of the disciplinary action stated in the order would otherwise result in grave injustice; or

(4) the misconduct is deemed to warrant substantially different discipline from that stated in the order.

RELATED AUTHORITY

None

CIVIL RULE 83.6
APPEARANCE AND SUBSTITUTION OF ATTORNEYS

(a) Appearances. Whenever a party has appeared through an attorney, the party may not thereafter appear or act in his or her own behalf in the case or take any step therein unless an order of substitution shall first have been made by the court, after notice to the opposing party and his or her attorney; provided, that the court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared or is represented by an attorney. A notice of appearance does not constitute a pleading and does not satisfy the requirement of an answer or preclude involuntary dismissal.

(b) Substitutions. When an attorney of record for any person ceases to act for a party, such party shall appear in person or appoint another attorney by a written "Notice of Substitution of Attorney" and proposed order. Said Notice of Substition shall be signed by the party, the attorney ceasing to act, and the newly appointed attorney or by a written designation filed in the cause and served upon the attorney ceasing to act unless said attorney is deceased, in which event the designation of the new attorney shall so state. Until such substitution is approved by the court, the authority of the attorney of record shall continue for all proper purposes.

(c) Withdrawal.

(1) No attorney of record for a party may withdraw from representing that party without leave of the court. Before an attorney is to be granted leave to withdraw, the attorney shall present to the court a proposed order permitting the attorney to withdraw and directing the client to appoint another attorney to appear, or to appear in person by filing a written notice with the court stating how the party will be represented. After the court has entered such order, the withdrawing attorney shall forthwith and with due diligence serve all other parties and either personally serve copies of the same upon his or her client or mail said notices by first class mail, return receipt requested. The order shall provide that the withdrawing attorney shall continue to represent the client until proof of service of the withdrawal order on the client has been filed with the court. The client shall have twenty (20) days from filing of proof of service by the attorney to file written notice with the court stating how the client will be represented. If the party represented by the withdrawing attorney is a corporation, the order must advise the corporation that it cannot appear without being represented by an attorney in accordance with D. Id. L. Civ. R. 83.4(d).

(2) Upon entry of the order and the filing of proof of service on the client, no further proceedings can be had in the action which will affect the right of the party represented by the withdrawing attorney for a period of twenty (20) days. If the said party fails to appear in

the action, either in person or through a newly appointed attorney within such twenty (20) day period, such failure shall be sufficient grounds for the entry of a default against such party or dismissal of the action of such party with prejudice and without further notice, which shall be stated in the order of the court.

(d) Persons Appearing Without an Attorney -- *In Propria Persona*.
Any person who is representing himself or herself without an attorney must appear personally for such purpose and may not delegate that duty to any other person. Failure to comply with the District of Idaho Local or Criminal Rules of Practice or the Federal Rules of Civil and Criminal Procedure may be grounds for dismissal or judgment by default. While such person may seek outside assistance in preparing court documents for filing, the person is expected to personally participate in all aspects of the litigation, including court appearances. In exceptional circumstances, the court may modify these provisions to serve the ends of justice.

RELATED AUTHORITY

None

CRIMINAL RULES

CRIMINAL RULE 1.1
SCOPE

(a) Title and Citation. These rules shall be known as the Local Rules of Criminal Practice before the United States District Court for the District of Idaho. They may be cited as "D. Id. L. Crim. R. _____."

(b) Effective Date. These rules became effective on June 1, 1991. Any amendment to these rules become effective on the date approved by the court.

(c) Scope of Rules. These rules shall apply to all criminal proceedings in the District of Idaho.

(d) Relationship to Prior Rules; Actions Pending on Effective Date. These rules supersede all previous rules promulgated by this court or any judge of this court. They shall govern all applicable proceedings brought in this court after they take effect. They also shall apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the court the application thereof would not be feasible or would work an injustice, in which event the former rules shall govern.

(e) Rule of Construction and Definitions.

(1) United States Code, Title 18, Sections 3771 and 3772, shall, as far as applicable, govern the construction of these rules.

(2) The following definitions shall apply:

(A) "Court." As used in these rules, the term "court" refers to the United Stats District Court of the District of Idaho, the entire board of judges for the District of Idaho, or to a judge or magistrate judge of the court before whom a proceeding is pending unless the rule expressly refers to a district judge only or to the full court.

(B) "Clerk." As used in these rules, the term "clerk" refers to the Clerk of Court or any deputy clerk designated by the Clerk of Court to act in the capacity of clerk.

(f) Applicability of Local Rules of Civil Practice. All general provisions of the Local Rules of Civil Practice apply to criminal proceedings unless such provisions are in conflict with or are otherwise provided for by the Federal Rules of Criminal Procedure or the Local Rules of Criminal Practice.

RELATED AUTHORITY

None

CRIMINAL RULE 11.1
PLEAS

(a) Changing Not Guilty Plea. Except where there has been filed with the court a written waiver of jury trial or upon a showing of good cause, the following pleas shall not be accepted on the day of trial unless the court has been advised of the defendant's desire to enter such a plea at least two (2) days prior to the day of trial:

(1) A plea of guilty to a lesser offense;

(2) A plea of guilty to a superseding information;

(3) A plea of guilty to less than all counts in the indictment; or

(4) A plea of guilty to all counts contained in the indictment accompanied by the United States Attorney's recommendation of leniency at sentencing or other such recommendation.

(b) Impositions of Costs. Failure of counsel to comply with this rule which results in non-utilization of a jury that has been called for the case, may result in the assessment of jury costs to the offending party or his or her attorney.

RELATED AUTHORITY

Fed. R. Cr. P. 11

CRIMINAL RULE 12.1
PROCEDURAL ORDERS AND MOTIONS

(a) **Procedural Orders**. At the arraignment, the magistrate judge or district judge shall set cutoff dates for the filing of requests for discovery, pretrial motions, and submission of jury instructions in accordance with General Order No. 124. These dates will be strictly adhered to unless an extension of time is granted by the court upon good cause shown.

(b) **Motions**. Criminal motions shall be served upon the adverse party, or his or her attorney, and filed with the Clerk of Court. Each motion shall be accompanied by a separate written memorandum containing all the reasons in support thereof, including the points and authorities in support of the motion, if the legal authority is relevant to the particular motion, along with copies of all documentary evidence relied upon. Each party opposing the motion shall serve upon the adverse party, or his or her attorney, and file with the clerk a memorandum containing all the reasons in opposition thereto, including the points and authorities relied upon and copies of all documentary evidence upon which the party in opposition relies; or a written statement that he or she will not oppose the motion. All response memoranda to pretrial motions, if any, shall be filed with the Clerk of Court on or before the fourteenth (14th) day following the filing of any pretrial motion. All reply memoranda to pretrial motion responses shall be filed with the Clerk of Court on or before the seventh (7th) day following the filing of such responses. An additional copy of all briefs shall be submitted to the Clerk of Court for use by the court. If the adverse party has no opposition to the motion, such shall be promptly communicated to the court. In the event an adverse party fails to file any responsive documents in a timely manner, such failure may be deemed by the court to constitute a consent to the sustaining of said pleadings or the granting of such motions.

(c) **Proposed Orders.** The moving party shall submit to the court at the time the motion is filed proposed orders accompanied by envelopes with sufficient postage, addressed to all parties, including a certificate of service as follows reflecting the envelopes provided:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this _____ day of _____, 19____, I served true and correct copies of the foregoing ORDER _____ by United States mail, postage prepaid, to the following:

_____
_____
_____

_____
Deputy Clerk

RELATED AUTHORITY

Fed. R. Cr. P. 12 and 47
General Order No. 124

CRIMINAL RULE 16.0
NON-FILING OF DISCOVERY IN CRIMINAL CASES

All written requests for notice or discovery under Fed. R. Cr. P. 12 and 16 and all responses thereto shall be filed with the Clerk of Court unless otherwise ordered. However, copies of documents and other items of discovery attached to or included with a response to discovery or notice request may be retained by the party who prepared the response and need not be attached to the original response filed with the clerk.

RELATED AUTHORITY

None

CRIMINAL RULE 17.1.1
PRETRIAL CONFERENCES

On request of any party or on his or her own motion, the assigned judge, or a designated magistrate judge, may hold one or more pretrial conferences in any criminal action or proceeding. At the discretion of the judge, the conference may be informal or formal. The defendant shall have the right to be present at any formal pretrial conference held on the record, unless the right is waived. The agenda at the pretrial conference shall consist of any of the following items, to the extent consistent with applicable statutes, i.e., Jencks Act, 18 U.S.C. § 3500, and the Federal Rules of Criminal Procedure. The court may add other items to the agenda if they would tend to promote the fair and expeditious trial of the action or proceedings:

(a) Production of statements or reports of witnesses;

(b) Production of grand jury testimony of witnesses intended to be called at the trial;

(c) Stipulation of facts which may be deemed proved at the trial without further proof by either party;

(d) Dismissal of certain counts and elimination from the case of certain issues;

(e) Severance of trial as to any co-defendant or joinder of any related case;

(f) Pretrial exchange of lists of witnesses, including experts, intended to be called in person or by deposition to testify at trial, except those who may be called only for impeachment or rebuttal;

(g) Pretrial exchange, with opportunity for mutual inspection of lists of documents, exhibits, summaries, schedules, models, or diagrams intended to be offered or used at trial;

(h) Premarking of intended trial exhibits, except for impeachment and rebuttal materials. No exhibit is to be assigned a number without first contacting the clerk, and the exhibits shall remain in the same sequence as they appear on the exhibit list;

(i) Pretrial resolution of objections to exhibits or testimony to be offered at trial;

(j) Preparation of trial briefs on disputed points of law likely to arise at trial; or

(k) Any other matter which may tend to promote a fair and expeditious trial.

RELATED AUTHORITY

Fed. R. Cr. P. 11
Fed. R. Cr. P. 17.1

CRIMINAL RULE 28.1
INTERPRETERS

(a) **Courtroom Proceedings**. Only officially designated interpreters may interpret official courtroom proceedings. Regardless of the presence of a private interpreter, such official interpreter must interpret all proceedings in the courtroom.

(b) **Out-of-Court Proceedings**. Official interpreters shall also be available when needed to interpret at interviews between the attorney and his or her non-English speaking client.

(c) **Compensation for Out-of-Court Interpreters**. See Appendix IV.

Court appointed attorneys may claim up to $300 in interpreter fees and be reimbursed provided they attach all pertinent interpreter bills to said voucher.

RELATED AUTHORITY

Fed. R. Cr. P. 28

CRIMINAL RULE 30.1
PRETRIAL BRIEFS, AND JURY INSTRUCTIONS

(a) **Trial Briefs**. Unless otherwise ordered by the court, counsel for the government and for each defendant may file a trial brief not less than five (5) calendar days prior to the date on which the trial is scheduled to commence. Copies shall be provided for the trial judge and adverse counsel. The brief should set forth any reasonably foreseeable point of law bearing on the issues upon which either party relies and the foreseeable evidentiary problems that are unusual or which otherwise require support, with citation of relevant statutes, ordinances, rules, cases, or other authorities.

(b) **Jury Instructions. See D. Id. L. Civ. R. 51.1.**

RELATED AUTHORITY

Fed. R. Cr. P. 30

CRIMINAL RULE 32.1
INVESTIGATIVE REPORTS BY
UNITED STATES PROBATION OFFICE

(a) Presentence Report Confidentiality.

(1) The presentence report is a confidential document and not available for public inspection. During the sentencing hearing, it will be filed with the Clerk of Court under seal. It also shall not be reproduced or copies distributed to other agencies or other individuals unless permission is granted by the court or the Chief United States Probation Officer.

(2) In addition to the presentence report, the probation officer will submit a separate document entitled "Sentencing Recommendation" to the Court. It shall be confidential and not disclosed to the government or to the defendant, or defendant's counsel or to any other person or party.

(b) Presentence Report.

(1) The court will set a date of sentencing to occur no less than seventy (70) days following the entry of a guilty plea or nolo contendere plea or verdict of guilty. At the time the sentencing date is set, the court will advise counsel and the probation office of the dates the presentence report will be disclosed to counsel, the date counsel is to submit any objections to the probation office, the date on which the presentence report, and any amendments thereto, will be submitted to the court and counsel. Should counsel or the probation office be unable to comply with the court's specified dates, they will notify the court forthwith and request a continuance of the sentencing hearing. It is contemplated that in most circumstances, the court will not formally accept a finding of guilty of a plea until after review of the presentence report.

(2) The probation officer shall provide timely notification to counsel of the date and place of the initial and subsequent interviews for the presentence report. Counsel shall be provided a reasonable opportunity to attend any interview of the defendant during the course of the presentence investigation.

(3) In the event a plea agreement has been entered into between the attorney for the government and the attorney for the defendant, it must be reduced to writing and submitted to the court prior to entry of the plea of guilty or *nolo contendere*.

(4) Not less than thirty-five (35) days prior to the date of sentencing, on the date specified by the court, the probation officer shall disclose the presentence investigation report to the defendant and to counsel for the defendant and the government. Within fourteen (14) days thereafter, on the date specified by the court, counsel shall file with the Clerk of Court and submit a copy to the probation officer any objections they may have as to any material information, sentencing

classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report.

(5) After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary. The probation officer may request counsel for both parties to meet with the probation officer to discuss unresolved factual and legal issues.

(6) Seven (7) days prior to the date of the sentencing hearing, on the date specified by the court, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, together with the officer's comments thereon. The probation officer shall certify that the contents of the report, including any revisions thereof, have been disclosed to the defendant and to counsel for the defendant and the government; that the content of the addendum has been communicated to counsel; and that the addendum fairly states any remaining objections.

(7) Except with regard to any objection made under subdivision (a) that has not been resolved, the report of the presentence investigation may be accepted by the court as accurate. The court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the court may consider any reliable information presented by the probation officer, the defendant, or the government.

(8) The times set forth in this rule may be modified by the court for good cause shown, except that the fourteen-(14)-day period set forth in subsection (4) may be diminished only with the consent of the defendant.

(9) Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under Fed. R. Cr. P. 32.

(10) The presentence report shall be deemed to have been disclosed (i) when a copy of the report is physically delivered, (ii) one (1) day after the report's availability for inspection is orally communicated, or (iii) three (3) days after a copy of the report or notice of its availability is mailed.

(c) Confidentiality of Probation Records.

(1) Investigative reports and supervision records of this court maintained by the probation office are confidential and not available for public inspection. The Chief Probation Officer may disclose these records to federal, state, or local courts; correctional and law enforcement agencies; or paroling authorities who have a legal, investigative, or custodial interest in that individual.

(2) Any party, other than those defined in subsection 1, seeking access to the confidential records maintained by the probation office shall do so by written petition to the court establishing with particularity the need for specific information in the records.

Rule Not to Supersede or Void Provisions of Fed. R. Cr. P. 32(c) Nothing in this rule shall be construed to supersede or void the provisions of Fed. R. Cr. P. 32(c).

RELATED AUTHORITY

Fed. R. Cr. P. 32

CRIMINAL RULE 44.1
RIGHT TO AND APPOINTMENT OF COUNSEL

(a) Right to and Appointment of Counsel. Attorneys may be appointed for indigent parties in a criminal proceeding including pretrial diversion and parole revocation hearings. If a defendant, appearing without counsel in a criminal proceeding, desires to obtain his or her own counsel, a reasonable continuance for arraignment shall be granted for that purpose. If the defendant requests appointment of counsel by the court or fails for an unreasonable time to appear with his or her own counsel, the assigned judge or magistrate judge shall, subject to the applicable financial eligibility requirements, appoint counsel unless the defendant advises the court that he or she wishes to represent himself *pro se*. Any financial affidavit submitted with the application for appointment of counsel shall be sealed by the clerk. If a defendant desires to represent himself and proceed without counsel, he or she shall sign and file a written waiver of right to counsel. The district judge or magistrate judge may nevertheless designate counsel to advise and assist the defendant to the extent defendant might thereafter desire. Appointment of counsel shall be made in accordance with the plan of this court adopted pursuant to the Criminal Justice Act of 1964 and on file with the clerk.

(b) Appearance and Withdrawal of Counsel. An attorney who has appeared for a defendant may thereafter withdraw only upon notice to the defendant and all parties to the case and after order of the court finding good cause exists and granting leave to withdraw. Failure of a defendant to pay agreed compensation shall not alone be deemed sufficient cause.

Unless such leave is granted, the attorney shall continue to represent the defendant until the case is dismissed or the defendant is acquitted. In the event the defendant is convicted, unless leave is granted, the attorney shall continue to represent the defendant until the time for making post-trial motions and for filing notice of appeal, as specified in Fed. R. App. P. 4(b), has expired. If an appeal is taken, the attorney shall continue to serve until leave to withdraw is granted by that court as provided in 18 U.S.C. § 3006A and in "Provisions for the Representation on Appeal of Defendants Financially Unable to Obtain Representation" as adopted by the Judicial Council of the Ninth Circuit.

(c) *Pro Hac Vice*/Local Counsel. An attorney eligible for admission under D. Id. L. Civ. R. 83.4(a) of the District of Idaho, and who is a member in good standing and eligible to practice before the bar of any United States court or of the highest court of any state or of any territory or insular possession of the United States, who is of good moral character and who has been retained to appear in this court, may, upon written application and in the discretion of the court, be permitted to appear and participate in a particular case and no certificate of admission shall be issued by the Clerk of Court.

The *pro hac vice* application shall be presented to the Clerk of Court and shall state under penalty of perjury (1) the attorney's residence and office addresses, (2) by what court(s) the attorney has been admitted to practice and the date(s) of admission, (3) that the attorney is in good standing and eligible to practice in said court(s), and (4) that the attorney is not currently suspended or disbarred in any other court(s). The attorney shall also (1) designate a member of the bar of this court who does maintain an office within this court as co-counsel with the authority to act as attorney of record for all purposes and (2) file with such designation the address, telephone number, and written

consent of such designee.

Attorneys not admitted to the bar of this court who, upon the filing of a verified petition for permission to practice in an individual case, are admitted under the conditions prescribed in D. Id. L. Civ. R. 83.4(e), shall be required to pay a fee of One Hundred Dollars ($100.00) for each such *pro hac vice* application so filed.

The designee shall personally appear with the attorney on all matters heard and tried before this court unless such presence is excused by the court. Original proceedings may be filed by an attorney before admission *pro hac vice*, but the time for the responsive pleading shall not begin to run until the appearance of associated local counsel is filed with the Clerk of Court.

RELATED AUTHORITY

Fed. R. Cr. P. 44

CRIMINAL RULE 46.1
RELEASE FROM CUSTODY/BAIL

(a) **Release from Custody**. Eligibility for release prior to and after trial shall be in accordance with 18 U.S.C. §§ 3142, 3143, and 3144.

(b) **Bail**. If the court sets as a condition of release a monetary bail under the Bail Reform Act, the bond or equivalent security shall comply with D. Id. L. Civ. R. 65.1 unless the court specifically orders otherwise.

(c) **Motion to Modify Bail**. Except as otherwise ordered by a judge of this court, magistrate judges shall, subject to the provisions of 18 U.S.C. § 3141, *et seq*., hear and determine all motions to modify bail.

RELATED AUTHORITY

18 U.S.C. §§ 3142-3144
Fed. R. Cr. P. 46
D. Id. L. Civ. R. 65.1

CRIMINAL RULE 46.2
PRETRIAL SERVICES

Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. §§ 3152-3155), the court authorizes the United States Probation Office for the District of Idaho to establish a Pretrial Services Division as provided for by the Act.

At the discretion of the Chief United States Probation Officer, personnel within the probation office shall be designated as pretrial service officers pursuant to the Act.

Upon notification that a defendant has been charged with an offense, either felony or misdemeanor, pretrial service officers will conduct a pre-release interview as soon as practicable. The judicial officer setting bail or reviewing a bail determination shall receive and consider all reports submitted by pretrial service officers.

Pretrial service reports shall be made available to the attorneys for the accused and the attorneys for the government and shall be used only for the purpose of fixing conditions of release, including bail determinations. Otherwise, the reports shall remain confidential, as provided in 18 U.S.C. § 3153, subject to the exceptions provided therein. In the event a pretrial service report is received in evidence at a hearing on terms and conditions of release, it shall be sealed by the court and not made a matter of public record.

Pretrial service officers shall supervise persons released on bail at the discretion of the judicial officer granting the release or conditions of the release.

The Chief U.S. Probation Officer of the District is authorized to approve interdistrict travel for persons under the supervision of the court.

RELATED AUTHORITY

18 U.S.C. § 3152-3155
18 U.S.C. § 3142(c)(1)(B)(VI)

CRIMINAL RULE 57.1
RELEASE OF INFORMATION BY ATTORNEYS
IN CRIMINAL CASES

(a) General. It is the duty of the lawyer for the United States and the lawyer for the defendant not to release or authorize the release of information or opinion for dissemination by any means of public communication, in connection with pending or imminent criminal litigation with which he or she is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement for dissemination by any means of public communication related to that matter and concerning:

(1) The prior criminal record (including arrests, indictments, or other charges of crime) or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, occupation, and family status and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his or her apprehension or to warn the public of any danger he or she may present;

(2) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identify of the victim if the announcement is not otherwise prohibited by law;

(5) The possibility of a plea of guilty to the offense charged or a lesser offense; or

(6) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(b) Pretrial Matters. During the course of any pretrial proceedings, including investigations by the grand jury, the attorney for the United States shall be guided by the provisions of Fed. R. Cr. P. 6(e), and 28 C.F.R. § 50.2(b), Release of Information by Personnel of the Department of Justice Relating to Criminal Proceedings. Attorneys for the defendant shall comply with Rule 3.6, Idaho Rules of Professional Conduct.

(c) **Release of Information During Trial.** During the trial of any criminal matter,

including the period of selection of the jury, no lawyer associated with the prosecution or the defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial for dissemination by any means of public communication.

(d) Release of Information After Trial. After the completion of a trial or disposition without trial of any criminal matter and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

(e) Exclusions. Nothing in this rule is intended to preclude the formulation or application f more restrictive rules relating to the release of information about juvenile or other offenders or to preclude any lawyer from replying to charges of misconduct that are publicly made against him.

(f) Sanctions. Violation of this rule may result in sanctions being imposed consistent with the powers of the court.

RELATED AUTHORITY

None

CRIMINAL RULE 57.2
VIOLATION NOTICES, FORFEITURE OF COLLATERAL
IN LIEU OF APPEARANCE

For certain scheduled offenses committed within the territorial and subject matter jurisdiction of a United States magistrate judge within the District of Idaho, collateral may be posted in the scheduled amount, in lieu of an accused's appearance before the magistrate judge.

If the accused fails to appear before the magistrate judge after posting collateral in the scheduled amount, the collateral shall be forfeited to the United States and such forfeiture shall be accepted in lieu of appearance and as authorizing the termination of the proceedings.

No forfeiture of collateral will be permitted for certain listed offenses described in the General Order adopting the Uniform Collateral Forfeiture Schedule for this Court.

Copies of current schedules of offenses for which collateral may be posted in lieu of appearance, and of the amounts of required collateral shall be available for public inspection at the offices of the Clerk of Court in Boise, Pocatello, Moscow, and Coeur d'Alene.

RELATED AUTHORITY

General Order #125, March 18, 1996

CRIMINAL RULE 58.1
ASSIGNMENT OF CRIMINAL MATTERS TO MAGISTRATE JUDGES

(a) Misdemeanor Cases. All misdemeanor cases shall be assigned, upon the filing of an information or the return of an indictment, to one of the district judges and then delivered to the magistrate judge to conduct the arraignment. If consent is given by the defendant for the trial of the case by the magistrate judge, the magistrate judge shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Federal Rule of Criminal Procedure 58.

(b) Felony Cases. Upon the return of an indictment or the filing of an information, all felony cases shall be assigned by the Clerk of Court to one of the district judges and then delivered to the magistrate judge to conduct an arraignment, appointment of counsel when appropriate, and other preliminary matters pursuant to Federal Rules of Criminal Procedure. Upon receipt of a not guilty plea, the magistrate judge shall calendar the case for the assigned judge for the purpose of trial setting, enter an order scheduling any pretrial motions to be heard before the judge, and notify the parties and counsel. If the defendant advises the magistrate judge that he or she wishes to enter a plea of guilty or *nolo contendere*, the magistrate judge shall calendar the case for the assigned district judge for entry of a plea of guilty or *nolo contendere*.

(c) Objections to Magistrate Judge's Orders, Reports, and Recommendations. See D. Id. L. Civ. R. 72.1(b)(1-3).

RELATED AUTHORITY

28 U.S.C. § 636(b)
18 U.S.C. § 3401
Fed. R. Cr. P. 48
D. Id. L. Civ. R. 72.1

CRIMINAL RULE 58.2
APPEAL FROM CONVICTION

(a) Notice of Appeal. A defendant who has been convicted by a magistrate judge may appeal to a judge by filing a timely notice of appeal within ten (10) days after entry of judgment with the Clerk of Court and by serving a copy on the United States Attorney pursuant to Fed. R. Crim. P. 58(c)(4)

(b) Record. A transcript, if desired, shall be ordered as prescribed by Fed. R. App. P. 10(b), except that, in the absence of a reporter, the transcript shall be ordered as directed by the magistrate judge. Applications for orders pertaining thereto shall be made to the magistrate judge.

Within thirty (30) days after a transcript has been ordered, the original and one copy shall be filed with the magistrate judge and all recordings shall be returned to the magistrate judge. All other documents and exhibits shall be held by the magistrate judge pending the receipt of the transcript. Upon its receipt, the record on appeal shall be deemed complete and the magistrate judge shall forthwith transmit the record to the Clerk of Court.

If no transcript is ordered within ten (10) days after the notice of appeal is filed, the record on appeal shall be deemed complete and the magistrate judges shall forthwith transmit the record to the Clerk of Court without a transcript.

(c) Assignment to a District Judge. The Clerk of Court shall assign the appeal to a judge in the same manner as any indictment or felony information. The magistrate judge shall provide the clerk with a copy of the transcript, if any, for the use of the assigned judge.

(d) Notice of Hearing. After assignment, the clerk shall promptly notify the parties of the time set for oral argument. Argument shall be scheduled not less than sixty (60) nor more than ninety (90) days after the date of the notice. However, an earlier date may be set upon application to the judge to whom the appeal has been assigned.

(e) Time for Serving and Filing Briefs. The appellant shall serve and file his or her brief within twenty-one (21) days after the notice of hearing. The appellee shall serve and file his or her brief within twenty-one (21) days after service of the brief of the appellant. The appellant may serve and file a reply brief within seven (7) days after service of the brief of the appellee. These periods may be altered by order of the assigned judge upon application of a party for good cause shown.

(f) Scope of Appeal. The scope of the appeal shall be the same as on an appeal from a judgment of the district court to the court of appeals.

RELATED AUTHORITY

None

Effective 1/1/98

APPENDIX I
DISTRICT COURT FEE SCHEDULE (Abbreviated Version)[1]

The following filing and service fees shall be collected by the clerk of the court:

Civil	150.00
Habeas Corpus	5.00
Notice of Appeal (including joint notices)	* 5.00
Docketing Fee	*100.00
Cross-Appeal	* 5.00
*($105.00 total)	
Filing and Indexing any paper not a case	20.00
Registration of Judgments	20.00
Petition to Perpetuate Testimony	20.00
Letters Rogatory	20.00
Letters of Request	20.00
Photocopy, per page. (does not include certification)	.50
Requests for and certification of results of search	15.00
Abstract of judgment	15.00
Certification of any document (each certification)	5.00
Exemplifications .(3 in one certificate)	10.00
Original Admission of.Attorney	70.00
Duplicate Certificate of Admission of Attorney	15.00
Certification that attorney is a member of this court	5.00
Pro Hac Vice	100.00
Retrieving record from Federal Records Center, National Archives, or other storage location removed from place of business of court	25.00
Check paid into court which is returned for lack of funds	25.00
Appeal to district judge from judgment of conviction by magistrate judge in misdemeanor case	25.00

NOTE: Any changes in fees will be printed in The Advocate or other periodicals published by the Idaho State Bar.

[1]The following pages present the entire Filing Fee Schedule in detail.

Effective 1/1/98

DISTRICT COURT FILING FEES

28 U.S.C. § 1913

[2]For docketing a case on appeal or review, or docketing any other proceeding, **$100**. A separate fee shall be paid by each party filing a notice of appeal in the district court, but parties filing a joint notice of appeal in the district court are required to pay only one fee. A docketing fee shall not be charged for the docketing of an application for the allowance of an interlocutory appeal under 28 U.S.C. § 1291(b), unless the appeal is allowed.

28 U.S.C. § 1914(a)

Parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing of **$150** except that on application for a writ of habeas corpus the filing fee shall be **$5.**

28 U.S.C. § 1917

[3]The filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or of a writ of certiorari **$5** shall be paid to the clerk of the district court by the appellant or petitioner, pursuant to 28 U.S.C. § 1917. (Cross-appeal is handled in the same manner with a **$5** fee.)

District Court Miscellaneous Fee Schedule
Issued in Accordance with 28 U.S.C. § 1914(b)

Following are fees to be charged for services to be performed by clerks of the district courts. No fees are to be charged for services rendered on behalf of the United States, with the exception of those specifically prescribed in items 2, 4, and 14. No fees under this schedule shall be charged to federal agencies or programs which are funded from judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A, and Bankruptcy Administrator programs.

(1) For filing or indexing any paper not in a case or proceeding for which a case filing fee has not been paid, **$20.** This fee is applicable to the filing of a petition to perpetuate testimony, Rule 27(a), Federal Rules of Civil Procedure the filing of papers by trustees under 28 U.S.C. § 754, the filing of letters rogatory or letters of request, and registering of a judgment from another district pursuant to 28 U.S.C. § 1963.

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[2]$5 appeal fee and $100 docketing fee (total $105) to be paid at time of the filing of the appeal.

[3]Plus $100.00 docketing fee (total $105) as in footnote # 2.

(2) For every search of the records of the district court conducted by the clerk of the district court or a deputy clerk, **$15 per name or item** searched. This fee shall apply to services rendered on behalf of the United States if the information requested is available through electronic access.

[4](3) For certification of any document or paper, whether the certification is made directly on the document or by separate instrument, **$5.** For exemplification of any document or paper, twice the amount of the fee for certification. (**$10)**

(4) For reproducing any record or paper, **50 cents per page**. This fee shall apply to paper copies made from either: (1) original documents; or (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record or paper requested is available through electronic access.

(5) For reproduction of magnetic tape records, either cassette or reel-to-reel, **$15** including the cost of materials.

(6) REPEALED.

(7) For each microfiche sheet of film or microfilm jacket copy of any court record, where available **$3.**

(8) For retrieval of a record from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court, **$25.**

(9) For a check paid into the court which is returned for lack of funds, **$25**.

(10) For an appeal to a district judge from a judgment of conviction by a magistrate in a misdemeanor case, **$25.**

[4]Exemplification Fee $10.00

Effective 1/1/98

[5] (11) For original admission of attorneys to practice, **$70** each, including a certificate of admission. For a duplicate certificate of admission or certificate of good standing, $15.

[6] (12) The court may charge and collect fees, commensurate with the cost of printing, for copies of the local rules of court. The court may also distribute copies of the local rules without charge.

(13) The clerk shall assess a charge for the handling of registry funds, deposited with the court, to be assessed from interest earnings and in accordance with the detailed **fee schedule issued by the Director of the Administrative Office of the United States Courts.**

[7] (14) For usage of electronic access to court data, 60 cents per minute of usage (provided the court may, for good cause, exempt persons or classes of persons from the fees in order to avoid unreasonable burdens and to promote public access to such information). All such fees collected shall be deposited to the Judiciary Automation Fund. This fee shall apply to the United States.

(15) For filing an action brought under Title III of the Cuban Liberty and Democratic Solidarity. (LIBERTAD) Act of 1996, P.L. 104-114, 110 Stat. 785 (1996) **$4180.** (This fee is in addition to the filing fee prescribed in 28 U.S.C. § 1914(a) for instituting any civil action other than a writ of habeas corpus.)

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[5] Original admission of attorney fee is $70 and pro hac vice fee is $100, Pursuant to District of Idaho General Order No. 132 - effective 12/18/96. The $70 fee is administered as follows: $20 to Treasury of the United States; $30 into special Treasury Fund established under 28 U.S.C. § 1931; $20 District of Idaho Non-Appropriated Fund.

With a certification ($5) of the certificate of admission; and a duplicate certificate of admission or certificate of good standing ($15), plus original admission of attorney fee ($70) the total is $90.

[6] The District of Idaho does not charge for copies of Local Rules.

[7] General Order # 85 signed 12/3/92 and updated on 9/12/97 by General Order # 140. The District of Idaho exempts all classes of persons from this fee to avoid unreasonable burdens and to promote public access to such information.

APPENDIX II
JURY SELECTION PLAN, CRIMINAL JUSTICE ACT PLAN, AND PLAN FOR PROMPT DISPOSITION OF CRIMINAL CASES

The District of Idaho has published and adopts as part of the Local Rules by reference, the Jury Selection Plan, Criminal Justice Act Plan, and the Plan for Prompt Disposition of Criminal Cases (Speedy Trial Act.)

APPENDIX III
RATE FOR COMPENSATION OF COUNSEL APPOINTED UNDER 21 U.S.C. §848(q)

The rate for compensation of counsel appointed pursuant to 21 U.S.C. §848(q) and 18 U.S.C. §3006A(a)(2)(B) shall be $100.00 per hour for time expended in-court and out-of-court. This rate shall apply only to the portion of the services claimed in the attorney compensation claim which were performed on or after April 1, 1990.

APPENDIX IV
OUT-OF-COURT INTERPRETER RATE OF PAY

The rate of pay for interpreters used for out-of-court time in connection with CJA appointments will be $14.00 per hour for certified interpreters and $12.50 per hour for non-certified interpreters. Interpreters will be allowed to include travel time to and from appointment in their hourly computation.

CJA Form 21, Authorization and Voucher for Expert and Other Services will be used to bill for interpreter services. All CJA Form 21's are to be approved by CJA attorney before submission to the Clerk's Office for approval and forwarding to Administrative Office for payment.

APPENDIX V
TRANSCRIPT FEES

	Original	First Copy To Each Party	Additional Copies To Same Party
Ordinary Transcript A transcript to be delivered within thirty (30) calendar days after receipt of an order.	$3.00	$ .75	$ .50
Expedited Transcript A transcript to be delivered within seven (7) calendar days after receipt of an order.	$4.00	$ .75	$ .50
Daily Transcript A transcript to be delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually be a court day.	$5.00	$1.00	$ .75
Hourly Transcript A transcript of proceedings ordered under unusual circumstances to be delivered within two (2) hours.	$6.00	$1.00	$ .75
*Realtime Unedited Transcript (including diskette) *Effective June 1, 1996*	$2.50	$1.00	$ .75

Litigants who have ordered a realtime unedited transcript and subsequently order an original certified transcript of the same proceeding will receive a credit toward the purchase of the certified transcript equal to the purchase price of the realtime unedited transcript.

Per page rates for copies of a certified transcript subsequently ordered by a litigant who previously ordered a realtime unedited transcript of the same proceeding:

	First Copy Each Party	Add'l Copy to Same Party
Ordinary Transcript	$ .75	$ .50
Expedited Transcript	$ .75	$ .50
Daily Transcript	$1.00	$ .75
Hourly Transcript	$1.00	$ .75

APPENDIX VI
UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

CHIEF DISTRICT JUDGE	Edward J Lodge	334-9270
	FAX	334-9229
Secretary	Diane McCoy	334-9270
Law Clerk	Nancy Baskin	334-9256
Law Clerk	Deborah Shattuck	334-9239
Law Clerk	Victoria Manning	334-9156
Law Clerk	Tad Blank	334-9256
Court Reporter	Margaret Satterfield	334-9271
In-Court Deputy	Carol Vaughn	334-9022
DISTRICT JUDGE	B Lynn Winmill	334-9145
	FAX	334-9209
Secretary	Camille Ridenour	334-9145
Law Clerk	David Metcalf	334-1891
Law Clerk	Mike Fica	334-1891
Law Clerk (Pocatello)	Jason Scott	234-2589
Court Reporter	Joe Roden	345-9611
In-Court Deputy	LaDonna Garcia	334-9021
CHIEF MAGISTRATE JUDGE	Mikel H Williams	334-9330
	FAX	334-9215
Administrative Law Clerk	Lisa Mesler	334-9330
Law Clerk	Ted Murdock	334-9331
Pro Se Law Clerk	Raul Labrador	334-1172
In-Court Deputy	Anne L Lawron	334-9387
MAGISTRATE JUDGE	Larry M Boyle	334-9010
	FAX	334-9215
Secretary	Marianne Bowman	334-9010
Law Clerk	Nathan Long	334-9010
In-Court Deputy	Lynette Case	334-9023

CUSTOMER SERVICE	**District Court**	334-1361
	FAX - Clerk's Office	334-9362
	INTERNET http://www.id.uscourts.gov	
	PACER	334-9590
	To register for PACER (voice)	334-9342
ON-SITE VENDOR SERVICES	**Copies of Court Documents**	**334-9463**

ADMINISTRATIVE		
COURT EXECUTIVE/CLERK OF COURT	Cameron S Burke	
Customer Service		334-1361
	FAX	334-9362
SECRETARY TO CLERK	Glenda J Tipton	334-1539
CHIEF DEPUTY	Sue Beitia	334-9464
ADMINISTRATIVE MANAGER	Tom Murawski	334-9205
ADMINISTRATIVE ANALYST	Ladora L Butler	334-9337
HUMAN RESOURCES	Sharla Worthen	334-9423
BUDGET ANALYST	Cecelia M Ashinhurst	334-1284
FINANCIAL - DISTRICT	Chris Tennant	334-9207
PROCUREMENT	GaleTuaoi	334-9398
ADR COORDINATOR/CJRA	Le Parker	334-9208
ADMINISTRATIVE ANALYST		

INTAKE			
SUPERVISOR	Jeanie Loera		334-1361
	Dana McWhood		334-1074
	Ron Haberman		334-1361
COURT SERVICES		FAX	334-9033
SUPERVISOR	Rod G Briggs		334-9327
DISTRICT COURT DOCKET DEPUTIES		FAX	334-9033
Southern/Eastern Criminal/CJA/			
Death Penalty Coordinator	Suzi Butler		334-1992
Eastern/Northern Civil			
Northern Criminal	Darlene Hand		334-1976
Southern Civil Cases	Wendy Wilson		334-1976
Appeals	Bob Raeder		334-1178
SYSTEMS		FAX	334-9033
SUPERVISOR	Doug Ward		334-9097
	Maria Richardson		334-9342
	Linda Cornwell		334-9716
	Kathy Stutzman		334-9716
	Larry Johnson		334-9427
	Gary Stallones		334-9427
ELECTRONIC SOUND RECORDER (ESR)	Vickie Jones		334-1595
	Barbara Keck		334-1595
JURY ADMINISTRATOR	Joanne Cook		334-1493

DIVISIONAL OFFICES

COEUR d'ALENE, ID 83814	205 N 4th St - Rm 202		664-4925
Deputy-In-Charge	Jerry Parker	FAX	765-0270
	Sherri O'Larey		
MOSCOW, ID 83843	220 E 5th St - Rm 304		882-7612
Deputy-In-Charge	Verlene Nelson	FAX	883-1576
	Nancy Persinger		
POCATELLO, ID 83201	250 S 4th St - Rm 263		236-6912
Deputy-In-Charge	Diane Hutchinson	FAX	232-9308
	Tammy Johnson		
	Ronda Buck		
	Dana Storrier		
	Marilyn Smith		

UNITED STATES PROBATION & PRETRIAL SERVICES
DISTRICT OF IDAHO

US Courthouse & Federal Building
550 W Fort St, MSC 032
Boise, Idaho 83724

Boise Office

US Probation Office
550 West Fort Street, Rm 458
Boise, Idaho 83724
(208) 334-1630
FAX (208) 334-1872

Craig R Fenwick, Chief
Steven J Cole, Deputy Chief
M T (Tim) Kitch, Supervisor
Marilyn McCarthy Manning
Timothy M Messuri, Sr EMS/PSO
Todd M Jorgensen
Richard J Gayler

Twin Falls Office

US Probation Office
219 2nd Street, Rm D
Twin Falls, Idaho 83301
(208) 734-0601
FAX (208) 733-7880

Stephen M Cedros

Pocatello Office

US Probation Office
250 South Fourth, Rm 296
Pocatello, Idaho 83201
(208) 236-6780
FAX (208) 233-5259

Charles L. Gray
Robert Bradley

Moscow Office

US Probation Office
304 US Courthouse
220 East 5th St
Moscow, Idaho 83843
(2 08) 882-2448
FAX (208) 883-1576

Stuart L Scott, Sr DATS

Coeur d'Alene Office

US Probation Office
207 US Courthouse
205 N 4th St.
Coeur d'Alene, ID 83814
(208) 765-6470
FAX (208) 667-5741

Robert L Urbaniak

APPENDIX VII

U.S. District & Bankruptcy Court
District of Idaho
Electronic Information Services

There are several methods for gaining access to the court's electronic information. All of these access methods are fairly simple and completely free[8]. The first service is Voice Case Information System (VCIS) which allows any caller with a touch-tone telephone to access basic bankruptcy information. The second service is called PACER, an acronym that means Public Access to Court's Electronic Records. This system allows the caller access to case information, docket reports and claims registers. The third method of accessing the court's electronic information is the court's Internet web site at http://www.id.uscourts.gov. This is a public service where any interested party can obtain certain decisions, opinions, fee changes, local rules and other court notices. Many court documents such as local rules, general orders and federal rules are located here. District Court cases; Bankruptcy Court cases; and many of their documents are also on this site. All of these services are available virtually around the clock, 365 days a year.

Voice Case Information System - Bankruptcy Cases

The telephone number for VCIS is (208) 334-9386. A caller can search through five cases per call, entering case number or the name of the participant using the letters above the keypad on the telephone. The system will read from the court's live database and include case number, filing date, chapter, names of attorney, trustee and judge, closing and discharge dates, status of the case, date and time of 341 meeting, and a phone number to call for more information. Finally, at the end of the call the caller can transfer to an operator during business hours for more information.

Public Access to Electronic Records

The PACER computer number is (208) 334-9590. All PACER users must first call and register at (208) 334-9342. The PACER system provides a complete summary of every Bankruptcy case filed since September 17, 1990. Partial case information is available on every case that was already pending on that same date. PACER provides the names, addresses, phone numbers and even social security numbers of all relevant parties.
A docket report which summarizes the previous 12 month's history of a case is also available, followed by a claims register. The mailing matrix is available as well.

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[8]As of September 1997 PACER is still free of charge. There is a national effort to require billing at 60 cents per minute of access to this service. It is likely that the District of Idaho will begin billing for this service at some point in the future. However, at this time District of Idaho General Order#140 signed September 12, 1997 exempts all classes of persons from these fees to avoid unreasonable burdens and to promote public access to such information.

Idaho Federal Court's World Wide Web Site on the Internet

The District of Idaho has an Internet site on the World Wide Web at http://www.id.uscourts.gov. This site serves as a repository of court documents, legal links and even case query capabilities. You can currently query a Bankruptcy case and retrieve all the basic case information, including the docket, aliases, related adversaries and even the claims register. Many cases are even imaged and those document images are available at this site. Selected District Court cases are available for query. There is no special registration required and this service is completely free.

The court documents included on this site include local rules (complete with links to the federal rules), general orders and a wealth of pro se information. This site also has court calendars and a considerable library of forms, including the Bankruptcy Petition and Schedules for filing, with instructions. Various legal links are available here, including links to Circuit Appellate Courts and Supreme Court decisions.

Public Terminals in Clerk's Offices

Terminals are located in the Boise, Coeur d'Alene and Moscow Intake Offices. Terminals connected to the court's live database can provide up to the minute information. Simple instructions accompany each terminal. These terminals will also access the document images for those cases that have been imaged.

Local Rules in Electronic Format

All local rules are available. Access to the District of Idaho Homepage is (http://www.id.uscourts.gov) Local Rules can be copied from Wordperfect 6.1 onto a diskette, free of charge, if you do not have access to the Internet. Please bring a 3.5" high density floppy diskette (formatted for IBM compatible systems) to the U.S. Courthouse at 550 West Fort St., Room 400. You can also send a 3.5" floppy diskette with a return addressed, postage paid floppy mailer to the United States Courts, Attn: Ladora Butler, U.S. Courthouse, MSC 042, Boise, ID 83724. By receiving the rules in this manner you can print them in any manner you wish, leave them on-line on your own computer system or even make notes on them. Macintosh users can retrieve this file directly into WordPerfect 2.0 for the Mac. ASCII text versions of the local rules will not be available due to reported problems converting footnotes to ASCII.